PROPOSED AMENDMENTS TO THE HATCH POLITICAL ACTIVITIES ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON ELECTIONS

OF THE

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH CONGRESS

FIRST AND SECOND SESSIONS

ON

H.R. 696

A BILL TO AMEND THE PROVISIONS OF LAW RELATING TO THE PREVENTION OF PERNICIOUS POLITICAL ACTIVITIES (THE HATCH POLITICAL ACTIVITIES ACT) TO MAKE THEM INAPPLICABLE TO STATE AND MUNICIPAL OFFICERS AND EMPLOYEES, TO PERMIT LIMITED PARTISAN POLITICAL ACTIVITIES BY FEDERAL OFFICERS AND EMPLOYEES IN CERTAIN DESIGNATED LOCALITIES AND FOR OTHER PURPOSES

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Eighty-Sixth Congress

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PROPOSED AMENDMENTS TO THE HATCH POLITICAL ACTIVITIES ACT

THURSDAY, MAY 5, 1960

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS OF THE
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, D.C.

The subcommittee met at 10:55 a.m., in room G–53, the Capitol, Hon. John Lesinski, Jr., presiding.

Present: Messrs. Lesinski and Casey.

Also present: Julian P. Langston, clerk; Samuel H. Still, special counsel; and Philip La Macchia, Chief of the Hatch Act and Litigation Section, Office of General Counsel, Civil Service Commission.

Mr. LESINSKI. The subcommittee will come to order.

We have for further consideration H.R. 696, which is a committee bill that was introduced after an exhaustive study of this matter by this subcommittee and, upon its recommendation, the features of H.R. 696 were approved by the full committee during the 85th Congress. The recommendations by the committee on December 31, 1958, relating to H.R. 696, were as follows:

The committee recommends amendment of section 9(a) of the Hatch Act by eliminating the present preferential treatment afforded Interior Department employees of the Alaskan Railway, thus placing Alaskan Railway employees under the same political restrictions as are now or might be imposed on employees of the Bureau of Public Roads and other Federal agencies living in such cities as Anchorage, Fairbanks, and Seward.

The second recommendation is that the committee recommends amendment of section 9(b) of the Hatch Act to eliminate existing provisions requiring a unanimous vote of the Civil Service Commission to impose any lesser penalty than removal.

The committee recommends amendment of section 9(b) of the Hatch Act to eliminate the present severe and harsh 90-day minimum suspension period for violators of section 9(a). It would reduce the penalty clause somewhat.

The committee recommends the repeal of section 12 and such an amendment to sections 2 and 21 of the Hatch Act as to entirely remove State and municipal employees from coverage under the act, thus returning to the respective States and municipalities the responsibility for regulating the political conduct of their own employees.

I am sure that most of you recall that in former hearings we went rather fully into that phase of the Hatch Act and there seemed to be some, practically unanimous, I would say, according to my recollection, feeling that there certainly should be some change in this regard to the Hatch Act.

Fifth, the committee recommends amendment of section 16 to permit partisan political activity on the local level up to the State legislature on the part of Federal employees in federally impacted areas in nearby Maryland and Virginia and elsewhere throughout the United States.

From previous testimony and letters sent to the committee by the Civil Service Commission it is apparent that the Commission has no objections to the recommendations Nos. 1, 2, and 3. The Commission, however, has indicated that it opposes recommendations 4 and 5. In other words, the Commission does not want to repeal existing law covering state and local employees under the Hatch Act. The Commission also does not go along with any extension of political privileges to Government employees in nearby Maryland and Virginia.

I would like to place a copy of H.R. 696 in the record:

(The bill is as follows:)

[H.R. 696, 86th Cong., 1st sess. (Introduced by Mr. Ashmore, Jan. 7, 1959)]

A BILL To amend the provisions of law relating to the prevention of pernicious political activities (the Hatch Political Activities Act) to make them inapplicable to State and municipal officers and employees, to permit limited partisan political activities by Federal officers and employees in certain designated localities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(a) of the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended (5 U.S.C., sec. 118i(a)), is amended by striking out "The provisions of the second sentence of this subsection shall not apply to the employees of the Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside.".

SEC. 2. Section 9(b) of such Act, as amended (5 U.S.C., sec. 118i), is amended (1) by striking out "by unanimous vote", (2) by striking out "That in no case shall the penalty be less than ninety days' suspension without pay: *And provided further,*", and (3) by striking out "by a unanimous vote".

SEC. 3. Section 12 of such Act, as amended (5 U.S.C., sec. 118k), is hereby repealed.

SEC. 4. Section 16 of such Act (5 U.S.C., sec. 118m) is amended to read as follows:

"SEC. 16. (a) Whenever the United States Civil Service Commission determines that it is in the domestic interest of persons to whom the provisions of this Act are applicable to permit such persons to take an active part in partisan political campaigns involving the municipality or political subdivision in which such persons reside, the Commission shall promulgate regulations permitting such persons to take an active part in partisan political campaigns to the extent that the Commission deems to be in the domestic interest of such persons, but subject to the following conditions:

"1. The persons must reside in the municipality or political subdivision in the immediate vicinity of the National Capital in the States of Maryland and Virginia, or in municipalities or political subdivisions in which a substantial portion of the voters are employed by the Government of the United States.

"2. Political activity must be limited to partisan political campaigns involving public elective offices of such municipality or political subdivision or involving elections of members of the State legislature who represent such municipality or political subdivision.

"3. Employees are prohibited from engaging in partisan political campaigns on any Federal property or in any building where business of the Government of the United States is carried on.

"(b) The provisions of subsection (a) shall be applicable to the employees residing in the municipalities and political subdivisions which the Commission has heretofore designated under section 16 of the Act prior to this amendment, until such time as the Commission revokes the designation."

SEC. 5. Section 18 of such Act, as amended (5 U.S.C., sec. 118n), is amended by striking out "or in the second sentence of section 12(a)".

SEC. 6. Section 21 of such Act, as amended (5 U.S.C., sec. 118k–1), is amended by striking out ", or 12".

SEC. 7. (a) The first paragraph of section 595n of title 18 of the United States Code is amended by striking out "or by any State, Territory, or possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or possession of the United States or by any such political subdivision, municipality, or agency) in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof."

(b) The second paragraph of such section is amended by striking out "by any State or political subdivision thereof, or by the District of Columbia or by any Territory or possession of the United States" and inserting in lieu thereof "by the District of Columbia".

(c) The heading of such section is amended to read as follows:

"§ 595. Interference by administrative employees of Federal Government"

(d) That portion of the analysis at the head of chapter 29 of title 18 of the United States Code which reads:

"Sec. 595. Interference by administrative employees of Federal, State, or Territorial Governments."

is amended to read as follows:

"Sec. 595. Interference by administrative employees of the Federal Government."

Mr. LESINSKI. Our first witness this morning is Congressman Lankford, of the Fifth District of Maryland, accompanied by his administrative assistant, Mr. Dick Still. You may proceed, Mr. Lankford.

STATEMENT OF HON. RICHARD E. LANKFORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. LANKFORD. Thank you very much, Mr. Chairman. I want to tell you I appreciate the opportunity to appear before your subcommittee once again on behalf of the committee bill, H.R. 696. Although I will not unduly burden the subcommittee with the history of this bill and my bill, H.R. 1167, of the 85th Congress which has led to the present study and legislation, there are a few points that I would like to make by way of review.

Before I get into the text of my statement I would like to say that Mr. Broyhill, of Virginia, asked me to say that he was unable to be here this morning because he is on the joint committee studying mass transportation and they are having hearings today.

He asked me to inform the committee that he is wholeheartedly in accord with my statement and would like to be associated with it.

Mr. LESINSKI. I appreciate that information.

Mr. LANKFORD. Mr. Foley also intended to be here. I understand he has submitted a statement for the record. He also is engaged in the hearings on this mass transportation problem.

Mr. LESINSKI. We are sorry we cannot have their statement in person, Mr. Lankford, but we are glad to have their statements for the record.

Mr. LANKFORD. This committee in the 85th Congress held extensive hearings here in Washington and in nearby Hyattsville, Md., and Alexandria, Va., where the views of leading citizens, elected officials, Federal employees, and all other interests were sought. Virtually all in the Metropolitan Washington area expressed clear convictions that there exists today a crying need for liberalization of the Hatch Act. Ample opportunity has been given to the Civil Service Commission to state its position on this legislation. If my memory serves me correctly, the past Chairman of the Civil Service Commission, Commissioner Ellsworth, expressed his support for H.R. 696 in the 85th Congress. Also, in the 84th Congress this com-

mittee approved a bill repealing section 12 of the Hatch Act. The bill was passed by the House on the Consent Calendar but, unfortunately, action was not taken by the Senate in that Congress.

On March 2 the administration requested further time to present views on the bill. I have now had an opportunity to study the administration's statements at great length and can see absolutely no reason for delaying action on H.R. 696. I request that it be reported to the full committee and thence to the floor where a much-needed full debate can take place. We are dealing here with one of the most hypocritical laws on the books perpetuated by biased personal opinions of political appointees of this administration who by their every word indicate they fear participation by Federal employees in the affairs of their Government. In Mr. Newell Brown's statement, reference is made to the Supreme Court decision in 1947 known as the *Mitchell* case. Mr. Brown saw fit to quote one phrase from the decision, but he did not see fit to mention the fact that this was a 5 to 4 decision of the Court with a strong, vigorous dissent by Justice Douglas.

The Department of Labor appeared to be most concerned about the repeal of section 12, that provision of the act that carries Hatch Act provisions over to the States. As I pointed out previously, this committee in the 84th Congress approved legislation that was subsequently passed by the House repealing section 12. By this action, Congress clearly indicated its belief that the States were perfectly qualified to determine for themselves how political activity on the part of its own employees should be regulated. There is overwhelming support throughout the United States for the repeal of this provision and I cannot believe that the opinionated statements of three Assistant Secretaries will serve very long as a roadblock to the action that must be taken. Mr. Brown makes the statement that—

> the repeal of the existing law might well be construed as an assent by Congress to widespread and intensely partisan political activity by employees formerly under the restraint of the act.

Of course, it is the intention of this bill to enable these employees to participate in partisan political campaigns. And I, for one, hope that activity will be widespread, as all of us as individual Members of Congress constantly urge our people not only to vote but to take an active interest in campaigns for all offices and to know the candidates and to understand the issues.

Here is where hypocrisy enters in. If I am addressing a graduating class from one of the area colleges, I find myself in this position: For those graduates who intend to seek careers in private industry, I say know your Government; participate in the selection of candidates and work for them. To those graduates who indicate to me a desire for service in the Federal Government, I say vote and that is all I can tell them. They can never take an active part in the political life of their communities unless the modest step forward contemplated by H.R. 696 is taken.

As I have previously pointed out, one of the reasons for the few cases that have arisen under section 12 is an inadequate appropriation for administration of the act. The Federal Government does a fine job of instilling fear in the minds of all of its own employees by the use of "wanted"-type posters looming from every corridor and office

in the Federal Government. It is very easy to investigate an alleged violation of the Hatch Act in the Washington, D.C., area, where individual agency investigative procedures can be utilized. A substantial sum of money is required to investigate State complaints. It was developed in testimony in the 84th Congress that the Civil Service Commission in 1 year was unable to investigate over 50 percent of filed section 12 complaints due to a shortage of funds. Therefore, we have a most pious declaration on the books and have never seen fit to appropriate sufficient moneys to enforce the law throughout the entire United States. This is once again pure hypocrisy.

We are advised by Mr. Brown, again, that the presence of section 12 acts as a deterrent to State employees. There are countless numbers of such employees who are not even aware that their political activities are restricted by a Federal act. Unless the Civil Service Commission decides to investigate a particular instance, in an individual State, there is little likelihood that they will ever know of this fact.

Section 4 of the bill is opposed on the grounds that there are problems of interpretation. These problems of interpretation would be insignificant compared to the problems the Civil Service Commission has today in attempting to make absurd regulations appear reasonable. In recent times the courts have constantly refused to uphold Civil Service Commission findings of a violation of the act. The committee has in its files citation after citation to Federal district court cases that will bear me out in this statement. I concede there may well be difficulty in distinguishing between State and National campaigns. These particular difficulties, I am sure, can be solved. Finally, at the conclusion of Mr. Brown's testimony, this statement is made:

> In addition, we are also concerned about the effect on these employees of withdrawing protections respecting these activities.

Then, he further states that Federal employee union representatives praise the Hatch Act as a law that is effective in protecting Federal employees from undesirable political pressures. This, to me, is an outright attempt to mislead the committee. No one is proposing the removal of provisions in the law that shield Federal employees from forced solicitation of either time or money. Obviously, Mr. Brown is not aware of the Federal Corrupt Practices Act, various provisions in the Criminal Code or clauses in the Civil Service Act. I would like to quote from title 18, section 602, as follows:

> Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for Congress, or individual elected as, Senator, Representative Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever from any other such officer, employee, or person, shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.

And I further quote: Section 2, second clause, of the Civil Service Act directs that the civil-service rules—

> shall provide and declare as nearly as the conditions of good administration will warrant, as follows: * * * Sixth. That no person in said service has any right to use his official authority or influence to coerce the political action of any person or body.

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In pursuance of this section, Civil Service Rule IV, section 4.1, provides, in part, that—

> persons in the executive branch * * * shall not use their official authority or influence for the purpose of interfering with an election or affecting the result thereof.

This provision applies to all persons in the executive civil service, and is held to prohibit a superior officer from requesting or requiring the rendition of any political service or the performance of political work of any sort by subordinates.

In addition, virtually every Federal employee association in testimony before this committee has supported H.R. 696. I would like to commend Assistant Secretary Moore for stating at the conclusion of his testimony that—

> It must be kept in mind that the employees concerned now have the right to vote for candidates of their choice at all levels.

Every statement made by the administration expresses the opinion that anything more than voting is bound to have a corrupting effect upon Federal employees and inevitably a return to the spoils system would come about. With this position I thoroughly disagree. If we have an effectively administered merit system, then there are proper safeguards now in the law to prevent the use of political influence in the appointment to and tenure in civil service jobs. I can see no possibility of a Federal employee being "used" by a political party. Actually, the very existence of the Hatch Act strongly implies that we, as lawmakers, do not believe there is an effectively administered merit system for the Federal service.

Therefore, Mr. Chairman and members of the committee, I strongly urge that the committee take favorable action on H.R. 696 in order that we may have a full, open debate, which I submit is long overdue. Congress has never examined thoroughly Hatch Act regulations. I, for one, welcome free, open and unlimited debate in order that once and for all the hypocrisy of this act can be exposed and in so doing the unnecessary fear phobia now existing can be dispelled.

Mr. LESINSKI. It is a well-done statement, Mr. Lankford. As per our conversation do you think that we should reaffirm or restate the sections you mention in your statement on page 4?

Mr. LANKFORD. Section 602 of title 18?

Mr. LESINSKI. Right.

Mr. LANKFORD. I do not think it would do any harm at all. As a matter of fact, I think it might serve a good purpose to restate it.

Mr. LESINSKI. Do you see any need for any changing of the wording in that section?

Mr. LANKFORD. To my mind, it certainly prohibits solicitation of funds, which is one of the protections that I think is most important to have for civil service employees. That, together with section 2 of the Civil Service Act, prohibits coercion in any other way than the solicitation of funds. I believe the two must be taken together. I think they should be and are taken together to protect the civil service employee from coercion of any nature or from solicitation of funds.

Mr. LESINSKI. In regard to section 2 of the Civil Service Act, in what part of the law is the reference to the appointment of personnel according to ability and not according to so-called politics?

Mr. SAMUEL STILL. That provision appears in the original Pendleton Act, which was the first step for political service performed, and

I think it was passed in 1883, whereby they set up a Civil Service Commission that was to make appointments and apportion appointments in the executive branch of the Government civil service among the States and that all appointees were to be considered on the basis of merit and ability and not on the basis of any political or partisan affiliation they might have. I can get that section out of the code.

Mr. LESINSKI. The reason I asked the question is this. The regulations are there, as I see them now. I was a little dubious about it before. But they are scattered throughout from way back in various laws and various statements and have not been compiled into one complete law for the protection of the Federal employees.

I do not like the idea of repealing laws just to repeal them. I wonder whether we could not work out something to compile a complete revision of all these sections to come up with a practical restatement of the law and repealing of the sections that have been put into law and make it as a new general overall supervision of the Federal employees.

Mr. LANKFORD. It would be a pretty big job.

Mr. LESINSKI. It would be a big job. I can foresee that.

Mr. SAMUEL STILL. Some attempt was made to do that in the Senate recently when they passed in the Senate a Federal Corrupt Practices Act insofar as Federal elections generally were concerned.

An act that would completely encompass all the existing laws and amend those laws with respect to political activities of Government employees would probably be advisable; no doubt about it. As a matter of fact, when they recodified the title 18 back in 1948, they left some of the provisions of the Hatch Act dangling and did not put them anyplace in the code. They left them out of title 18. Subsequently they put them in title 5, which covers civil service employees.

There is only one publication that brings all these particular acts together. That is this Federal Corrupt Practices and Political Activities pamphlet put out by the Senate. I prepared this for the Senate in 1948 when I was counsel over there for them. Even this does not contain some of the provisions that you are talking about there now, the Pendleton civil service provisions.

I think it would be advisable to bring all these laws affecting Federal employees into one act so that employees would be advised as to what they could do and could not do. Now you have to look through title 5 of the code, through title 18, as well as some of the other sections. Congress can set up a Commission and put certain political restrictions on those employees.

Every year the appropriation act here carries special provisions with respect to political activities of the Department of Agriculture employees. I doubt seriously if a lot of the Agriculture employees know that is in the appropriations act.

I believe an overall revision would be an advisable thing. However, as I understood it, the purpose was at this time to limit the particular bill to the feature that would repeal the provisions insofar as State employees are concerned and to also at the same time give some greater partisan political activity to these persons over here in Maryland and Virginia.

Mr. LESINSKI. I understand that portion, and I am not arguing that point. I was getting somewhat concerned about the way this thing is working out, that you have to take a little from here and a

little from there and a little from another place, and it is not one overall code.

Mr. LANKFORD. I agree with you and with Mr. Still that perhaps an overhauling of these laws or a recodification would be advisable. I think that would be a time-consuming job and, quite frankly, I would like to see some action taken on H.R. 696.

Mr. LESINSKI. I am not arguing that question. I am in full accord with it. On the other hand, I can foresee other difficulties.

Mr. LANKFORD. I think perhaps that would be something that this subcommittee particularly could undertake at a future date. I think it would be a very laudable undertaking.

Mr. LESINSKI. Is there anything further?

Mr. LANKFORD. I have nothing further.

Mr. LESINSKI. Are there any questions?

Mr. SAMUEL STILL. May I make one little statement? Congressman Lankford did at the beginning of the 85th Congress introduce a resolution which was designed, I believe, to achieve just what you are talking about, to make a thorough, intensive investigation of the political activities of the Government employees and their relation to the agencies.

It has been brought out considerably to the effect that every agency in the Government had a different procedure for administering the Federal laws relating to political activities. The Defense Department had one procedure, the Post Office Department had another procedure, and the Civil Service Commission had its own ideas about it.

There were instances where the Solicitor of the Post Office Department had advised certain postal employees they could do a certain thing, and then after they did these things, they were reported to the Civil Service Commission and they had to answer complaints to the Civil Service Commission for doing the very thing that had previously been approved by the Post Office Department because the Civil Service Commission is the agency which enforces this Hatch Act.

Mr. LESINSKI. I think I can substantiate that because even I had people back home interested in participating in politics and, as Mr. Meloy said, they were allowed to put one sticker on their car but they were afraid to because they did not know what the repercussions might be.

We have statements from Mr. Foley and from Mr. Broyhill, which statements we will put in the record at this point.

(Mr. Foley's statement follows:)

STATEMENT OF JOHN R. FOLEY, MEMBER OF CONGRESS, SIXTH DISTRICT OF MARYLAND

Mr. Chairman, I appreciate this opportunity to express my support for H.R. 696, a constructive and necessary measure to amend the Hatch Political Activities Act. In my estimation, Report No. 2707, issued during the 85th Congress pursuant to House Resolution 406, is an eloquent statement providing documented support for the amendments incorporated in the present bill. What impressed the committee in 1958 is at least equally pertinent today.

As the Member of Congress from the Sixth District of Maryland, and as a resident of Kensington, Md., it is my privilege to live and work with those affected most by the patent inequities currently existing in the Hatch Act. My constituents, friends, and neighbors, be they Democrats, Republicans, or of no particular political affiliation, are made politically insensible through the benumbing effect of legislation written in the white heat of reaction to political excesses that no

longer prevail. The proposed legislation under discussion here today would at least indicate that we in the Congress are taking "legislative notice" of a different political environment in which the needs and wants of Government employees have changed as a result.

Rather than take the valuable time of the committee with an analysis of the technical aspects of each of the five basic recommendations of the 1958 study as incorporated in H.R. 696, I would prefer to discuss in general terms the merits of the proposed repeal of section 12 of the Hatch Act and the proposed amendment of section 16 of the act.

Section 12 which was added to the Hatch Act by the act of July 19, 1940, places officers and employees of any State and local agency who exercise any function in connection with any activity financed in the least way by Federal funds, under the same political restrictions as imposed on regular Federal employees by the original Hatch Act of 1939. It prohibits State and local officers and employees from using their official authority or influence in order to interfere with an election or affecting the result thereof, or from taking active part in campaigns. The burgeoning application of the grants-in-aid concept has moved the Federal prerogative swiftly and directly into conflict with State and local responsibility.

As the committee report indicated, the number of State, county, and local officials whose work depends in part or in whole on Federal funds has increased tremendously since section 12 was added to the act in 1940. The Bureau of the Budget estimates total grants-in-aid to States and localities for fiscal 1960 at close to the $7 billion level as compared with the 1940 figure of $573 million. This growth in the grants-in-aid program brings with it a concomitant growth in almost geometric proportions of the number of individuals subject to Hatch Act proscriptions on political activity.

The record is replete with the number of attempts by individual Members of Congress to eliminate section 12. Over the years since the 77th Congress, a number of bills have been introduced by members of both parties in an effort to return the regulation of the political conduct of municipal and State employees to the appropriate local or State authorities. The last endorsement of this principle was the approval by your subcommittee. I ask that the final endorsement, approval by the House of Representatives, become a fact during this session of the Congress.

Section 16 relates to the problem of participation of Federal employees in the local political activities of federally impacted areas. This is a problem that is very close to me. I feel that I have been in a particularly advantageous position to observe the effects of this legislation on my constituents in Montgomery County. It would be to the advantage of all concerned to take the authority to permit partisan activity from the Civil Service Commission and to redefine this right as an expression of the Congress. By such action the Congress would clear away the cloudy ambivalence of administrative determinations, making it clearly the law of the land so that these fine enlightened people may participate in local political activity without concern as to the possibility of still another Civil Service Commission interpretation or regulation.

I urge your favorable consideration of H.R. 696. Among the many points which might have been brought to bear in support of such action, I have stressed only two; namely, the repeal of section 12 will take the Federal Government out of activity within the clear purview of State and local responsibility; and amending section 16 so that there is a clear expression of the will of Congress to permit political activity by Federal employees in federally impacted areas. The other sections of H.R. 696 are equally important and valid in the effort to make the Hatch Act a more modern and equitable law. Political activity by Federal employees need not be pernicious. From my experience in Montgomery County it is not and has never been pernicious. We need new and modern rules. The enactment of H.R. 696 is a long step in the right direction.

(Mr. Broyhill's statement follows:)

STATEMENT OF REPRESENTATIVE JOEL T. BROYHILL, (REPUBLICAN, OF VIRGINIA)

Mr. Chairman, as a preliminary to my remarks on the Hatch Act, I would like to mention the results of the questionnaire I recently sent to all registered voters in the 10th District of Virginia, for I think these results indicate clearly the degree of uncertainty that exists in the minds of civil service employees about this problem. The relevant question was:

Do you favor liberalizing the Hatch Act to allow Federal employees to take a more active share in partisan political campaigns?

Approximately 6,700 individuals answered this question. Of these, 51.2 percent answered yes; 43.8 percent no; and 5 percent indicated no opinion. Although this suggests a majority of those who responded would favor liberalization if it came to an actual vote, the majority is a thin one, and the weight of opinion not nearly as clear as it was on other questions on the questionnaire. It should also be noted that many in the 51.2 percent majority may have had very moderate liberalization in mind when they answered, and would vote no to extensive liberalization. On the other hand, those who voted no on the questionnaire almost certainly are opposed to any liberalization at all.

I personally do not feel that the present terms of the Hatch Act are equitable at all. The most important inequity arises in connection with the so-called independent party activities such as currently exist in Arlington County in my own district. Very briefly, under the present terms of the Hatch Act, a civil service employee cannot engage in partisan activities for a candidate of one of the major parties, even if he feels it is essential for the welfare of the local government that his preferred candidate be elected. But a civil service employee can work as hard as he wishes against the candidate of a major party if he is willing to join forces with one of the independent movements.

This is not only obviously unfair—I believe it is un-American. It provides a built-in advantage in the electoral system for one group as opposed to another. The additional fact that this advantage is the result of Federal action makes it the more incongruous in view of the concern for fairplay expressed by all elements of the National Government in other areas of the electoral system.

I am deeply sympathetic with the desire of responsible citizens to participate in local affairs, and to share the burden of citizenship with others who do not work for the Federal Government. But I cannot agree that their activities should be restricted to working for one group and never for the other, and I don't think it is necessary that it should be within the spirit of the Hatch Act. The basic purpose of this act is to protect the average civil servant from pressure by superiors for contributions of money and work to help keep these superiors in their jobs. But to attempt to implement this purpose by keeping all civil servants from regular and legitimate political activity with the party of their choice through a system of heavy penalties is not the way to do it. The place to put the pressure is on the superior who attempts to coerce an employee into illegitimate activities, or into doing things that the employee does not want to do. I would like to propose, therefore, that we give serious consideration to changing the law to put real teeth in it to punish any superior who attempts to exercise undue influence on his employees, and to liberalize the provisions for legitimate political activity at least in local politics by the rank and file of the civil service.

If, however, this cannot be agreed to, I would like to return to my earlier remarks concerning the unfairness in the act as it now operates. If we cannot allow civil servants to participate equally for or against a regular party nominee in a race against an independent, then we would not allow them to participate for an independent against a regular party nominee.

Although this in effect would preclude political activity of any kind by employees of the civil service, I believe it would be much fairer than what is going on now. I personally would prefer that we did not have to accept this alternative. It would be better, in my opinion, to tighten the law to control exercise of political pressure at the point where it is applied, and establish severe penalties on those who attempt to apply it. This, I believe, would be the American way to go about it.

Mr. LESINSKI. If there are no further questions and no further witnesses, would the gentleman from the Civil Service Commission, Mr. La Macchia, have a statement of any kind?

Mr. LA MACCHIA. I have been asked to appear here strictly as an observer and not to offer anything for the record.

Mr. LESINSKI. As an observer, do you think—this is not for a statement, but it will be in the record—do you think our points here on the problem of the overall codification would be proper?

Mr. LA MACCHIA. I would like to say there has been underway a project for the last 2 years recodifying all of the laws, pulling together all the provisions which affect Federal employees. That is being done now.

Mr. LESINSKI. It is being done now? What can we expect in the future on it?

Mr. LA MACCHIA. I would expect within the year that there would be a print available for the Congress.

Mr. LESINSKI. Knowing Mr. Jones, of the Civil Service Commission, I assure you something shall be done. Thanks a lot.

Mr. SAMUEL STILL. I would like to ask him if that is just a recodification of title 5. I understand all Government agencies have undertaken to recodify the laws which relate to their agency. Is that a recodification simply of title 5?

Mr. LA MACCHIA. Title 5 and all other provisions under other titles of the Code affecting Government employees.

Mr. SAMUEL STILL. Including the independent agencies?

Mr. LA MACCHIA. Yes.

Mr. SAMUEL STILL. Commissions, and so forth?

Mr. LA MACCHIA. Yes. Not including, of course, the criminal provisions that remain in title 18.

Mr. LESINSKI. Mr. La Macchia, we would be glad to have you furnish for the record at a later date any additional views the Commission may have in light of the testimony received today.

There was passed out of the House Civil Service Committee the other a day a bill (H.R. 9883) that includes agricultural stabilization and conservation county committee employees with respect to salary increase, and, in addition, retirement and life and health benefits provided under the Federal employee's retirement and insurance programs. From that action would they be put under the Hatch Act?

Mr. SAMUEL STILL. The action had by your committee yesterday actually doesn't change the status of the employees concerned. Agricultural and stabilization and conservation county employees are declared by H.R. 9883 to be Federal employees only for the purpose of retirement and life and health benefits provided under the Federal employees' retirement and insurance programs. They are not covered by the Hatch Act but are under similar political restrictions. During the course of the investigation of the operation of the Hatch Act during the last Congress the Director of Personnel of the Agriculture Department, Mr. Ernest Betts, on November 27, 1957, advised me that the stabilization and conservation county committee employees are not covered by the Hatch Act. Mr. Max Reid, also an official of the Department of Agriculture, advised this committee that conservation employees in a county are not Federal employees but are under administrative restrictions that they can engage in no political activity while serving the county committee. Authority for this restriction is found in section 8 of the Soil Conservation Act, section 590h of title 16, United States Code, which says the Secretary can write rules and regulations respecting the functions of the local committees.

Mr. LESINSKI. There being no further questions, the subcommittee stands adjourned.

(Whereupon the subcommittee adjourned.)

(At this point there is inserted in the hearing a resolution from the Wisconsin Council of County and Municipal Employees endorsing H.R. 696.)

RESOLUTION NO. 6

Whereas many State, county, and municipal civil service employees are now controlled by the Federal Hatch Political Activities Act and therefore subject to the dictates of the U.S. Civil Service Commission; and

Whereas there is widespread confusion among civil service personnel concerning the restrictions imposed by the Hatch Political Activities Act; and

Whereas there continues to exist a great variance in the administration of the Hatch Act provisions by the several administrating department heads; and

Whereas confusion concerning who is covered by the Hatch Act is extensive and some administrators coerce their employees to avoid political activity even on their own time whether covered by Hatch Act provisions or not: Now, therefore, be it

Resolved by the Wisconsin Council of County and Municipal Employees in convention assembled, That the U.S. Congress this session give favorable action to bill H.R. 696 which would remove all county and municipal employees from control of the Hatch Political Activities Act and return control to the several States; and be it further

Resolved by the convention, That it is the position of the Wisconsin Council of County and Municipal Employees that all civil service employees, on all levels of government should have the freedom of choice to engage or not to engage in political activity as their conscience dictates, but only during the hours they are not on duty; and be it further

Resolved, That the present negative coercive rules enforced partly by the Hatch Act provisions and partly by informal and unwritten policy agreements of certain administrators relating to off-duty political activity is destructive of the democratic process and contrary to sound public policy; and be it hereby further

Resolved, That the Wisconsin Council of County and Municipal Employees reaffirms its dedication to sound civil service procedures and policies and the abolition of the spoils system in public employment; and be it finally

Resolved, That the Wisconsin Council of County and Municipal Employees strongly advocates clearly written policies concerning the prohibition of political activity by employees during the hours they are on duty and prohibiting coercion of employees by other employees and superior officers.

Adopted this 3d day of April 1960.

Copies of this resolution are to be sent to all Wisconsin Congressmen and Senators and to members of the Committee on House Administration.

APPENDIX

HATCH POLITICAL ACTIVITIES ACTS OF 1939 AND 1940, AS AMENDED*

[Public Law No. 252, 76th Cong., August 2, 1939, ch. 410, secs. 1–11, 53 Stat. 1157; as amended by Public Law No. 753, 76th Cong., July 19, 1940, ch. 640, sec. 1–6, 54 Stat. 767; (and further amended by Public Law No. 507, 77th Cong., March 27, 1942, ch. 199, title VII, sec. 701, 56 Stat. 181, which expired March 31, 1947, under provisions of Public Law No. 475, 79th Cong., June 29, 1946, ch. 526, 60 Stat. 345, Public Law No. 754, 77th Cong., October 24, 1942, ch. 620, 56 Stat. 986; and further amended by Public Law No. 277, 78th Cong., April 1, 1944, ch. 150, title V, sec. 501, 58 Stat. 148–149, as amended by Public Law No. 418, 78th Cong., August 21, 1944, ch. 404, 58 Stat. 727, which expired December 31, 1946, by Proclamation of the President No. 2714); Public Law No. 684, 79th Cong., August 8, 1946, ch. 904, 60 Stat. 937; also cited as United States Code, 1946, title 18, sec. 61–61x, certain provisions of sec. 61h expiring March 31, 1947, under provisions of Public Law No. 475, 77th Cong., June 29, 1946, ch. 526, 60 Stat. 345, and secs. 61v, 61w, 61x expiring December 31, 1946, by Proclamation of the President No. 2714, as amended by Public Law No. 772, 80th Cong., 2d sess., June 25, 1948; as amended by Public Law 732, 81st Congress; as amended by Public Law 330, 84th Congress]

Sec. [1] [8] 594. INTIMIDATION AND COERCION OF VOTERS IN ELECTIONS OF CERTAIN OFFICERS. (Title 18, U. S. C., sec. 594, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 1 and 8 of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, and formerly 18 U. S. C., secs. 61 and 61g.)

Elections of Federal officials, including Presidential electors

Intimidation or coercion of voters by any person, unlawful

SEC. 594. Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and Possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Penalty

[8] Former secs. 1–8, 10–11, 13, 17, and 20 of the Hatch Act were repealed by Public Law 772, 80th Cong., 2d sess., June 25, 1948, which act revised, codified, and enacted into positive law title 18 of the United States Code, entitled "Crimes and Criminal Procedure." Secs. 10, 11, and 17 were omitted from the revised title 18 for reasons stated in the notes here under the particular section. Secs. 9, 12, 15–16, 18, and 21 of the Hatch Act have been transferred to title 5, Executive Department, United States Code, where they appear as secs. 1181 to n, inclusive. Sec. 9A was repealed but reenacted in substance by Public Law 330, 84th Cong., 1st sess., August 9, 1955. Sec. 14 will appear as sec. 1181k-3 in Supp. III (1956), U. S. Code.

Sec. 594 of title 18 quoted in the text above is based on former secs. 1 and 8 (former secs. 61 and 61g of title 18, U. S. C.) and consolidates these sections with changes in phraseology only. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

*Compiled by Samuel H. Still, legislative attorney, American Law Division, Legislative Reference Service, Library of Congress.

Sec. [2.][1] 595. ADMINISTRATIVE EMPLOYEES OF UNITED STATES OR ANY STATE, USE OF OFFICIAL AUTHORITY TO INFLUENCE ELECTIONS. (Title 18, U. S. C., sec. 595, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 2 and 8 and incorporating the provisions of secs. 14, 19, and 21 of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, as amended by the Act of July 19, 1940, ch. 640, 54 Stat. 767; and further amended by the Act of October 24, 1942, ch. 620, 56 Stat. 986 and formerly 18 U. S. C., secs. 61a, 61g, 61n, 61s, and 61u.)

Use of official authority by anyone in administrative position for purpose of interfering with election, unlawful

Includes District of Columbia employees

Includes employees of federally financed projects of States and municipalities

Penalty

Employees of educational and research institutions, etc.

SEC. 595. Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Resident Commissioner from any Territory or Possession, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic, or cultural organization.

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[1] Sec. 595 quoted in the text above consolidates former secs. 2 and 8 and incorporates secs. 14, 19 and 21 of the Hatch Act. Words "or agency thereof" and words "or any department or agency thereof" were inserted to remove any possible ambiguity as to scope of the new section. Definitions of the terms "department" and "agency" are now found in sec. 6 of title 18, the term "agency" including any department, independent establishment, commission, administration, authority, board, or bureau of the United States or any corporation in which the United States has a proprietary interest unless the context shows that such term was intended to be used in a more limited sense.

Words "or by the District of Columbia or any agency or instrumentality thereof" were inserted upon authority of sec. 14 of the Hatch Act which provides that for the purposes of this section "persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States."

After "State" the words "Territory or possession of the United States" were inserted in two places upon authority of sec. 19 of the Hatch Act which defines "State," as used in this section, as "any State, Territory, or possession of the United States." The punishment provision now found in sec. 595 was derived from former sec. 8 of the Hatch Act, which by reference made the punishment applicable.

The second paragraph of sec. 595 incorporates the provisions of sec. 21 of the Hatch Act.

Changes were made in phrasecology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

Sec. [3] [10] 600. POLITICAL ACTIVITY; PROMISE OF EMPLOYMENT, COMPENSATION OR OTHER BENEFIT. (Title 18, U. S. C., sec. 600, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 3 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, and formerly 18 U. S. C., secs. 61b and 61g.)

Promise of benefit of any person as reward for support of or opposition to a candidate or political party unlawful

SEC. 600. Whoever, directly or indirectly, promises any employment, position, work, compensation, or other benefit, provided for or made possible in whole or in part by any Act of Congress, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Penalty

Sec. [4] [11] 601. SAME; DEPRIVATION OF EMPLOYMENT, COMPENSATION OR OTHER BENEFIT. (Title 18, U. S. C., sec. 601, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 4 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1147, 1148, and formerly 18 U. S. C., secs. 61c and 61g.)

Discrimination in work relief, etc., on account of race, creed, etc., unlawful

SEC. 601. Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Penalty

Sec. [5.] [12] 604. ASSESSMENTS; CONTRIBUTIONS; SOLICITATION FROM BENEFIT RECIPIENTS. (Title 18, U. S. C., sec. 604, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 5 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1148, and formerly 18 U. S. C., secs. 61d and 61g.)

Contributions, etc., for political purposes from persons receiving work relief or relief benefit unlawful

SEC. 604. Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit

[10] Sec. 600 quoted in the text above is based on and consolidates former secs. 3 and 8 of the Hatch Act. Minor changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[11] Sec. 601 quoted in the text above is based on and consolidates former secs. 4 and 8 of the Hatch Act. The words "except as required by law" were used as sufficient to cover the reference to the exception made to the provisions of subsec. (b), sec. 9, of the Hatch Act which expressly prescribes the circumstances under which a person may be lawfully deprived of his employment and compensation therefor. Changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No, 304 on H. R. 3190.)

[12] Sec. 604 quoted in the text above is based on and consolidates former secs. 5 and 8 of the Hatch Act. Minor changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes,

Penalty

shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Sec. [6.] [13] 605. LIST OF BENEFIT RECIPIENTS; FURNISHING. (Title 18, U. S. C., sec. 605, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 6 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1148 and formerly U. S. C., secs. 61e and 61g.)

Disclosure of lists or names of persons on relief for political purposes unlawful

SEC. 605. Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee or campaign manager; and

Receipt of list unlawful

Whoever receives any such list or names for political purposes—

Penalty

Shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Sec. [7.] [14] 598. APPROPRIATIONS, OFFICIAL AUTHORITY; USE IN COERCING VOTERS. (Title 18, U. S. C., sec. 598, as enacted by Public Law 772, 80th Cong., 2d sess., superseding secs. 7 and 8, of the Act of August 2, 1939, ch. 410, 53 Stat. 1148 and formerly 18 U. S. C., secs. 61f and 61g.)

Relief, etc., funds, providing loans for public-works projects, use to coerce or restrain voters unlawful

SEC. 598. Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall

Penalty

be fined not more than $1,000 or imprisoned not more than one year, or both.

Sec. [8.] [15] 594, 595, 598, 600, 601, 604, 605, PENALTIES. (Sec. 8, of the Act of August 2, 1939, ch. 410,

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[13] Sec. 605 quoted in the text above is based on and consolidates former secs. 6 and 8 of the Hatch Act. Reference to persons aiding or assisting, contained in words "or to aid or assist in furnishing or disclosing" was omitted as unnecessary as such persons are made principals by sec. 2 of title 18: "(a) Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission is a principal. (b) Whoever causes an act to be done, which if directly performed by him would be an offense against the United States, is also a principal and punishable as such." Changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[14] Sec. 598 quoted in the text above is based on and consolidates former secs. 7 and 8 of the Hatch Act with changes of phraseology necessary to effect the consolidation. The punishment provision was derived from former sec. 8 of the Hatch Act which, by reference, was made applicable to this section. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[15] For disposition of sec. 8 see secs. [1] 594, [2] 595, [3] 600, [4] 601, [5] 604, [6] 605, and [7] 598.

Sec. 8 of the Hatch Act, providing a penalty for violation of secs. 1 through 7 was repealed by Public Law 772, 80th Cong., 2d sess., but was reenacted as a penalty provision in title 18, U. S. C., secs. 594, 595, 598, 600, 601, 604, and 605. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

53 Stat. 1148, formerly 18 U. S. C., sec. 61g was repealed by Public Law 772, 80th Cong., 2d sess., but was reenacted and consolidated with former sections 1–7 of the Act of August 2, 1939, as title 18, U. S. C., secs. 595, 598, 600, 601, 604, and 605.)

Sec. 9.[16] EXECUTIVE EMPLOYEES; USE OF OFFICIAL AUTHORITY; POLITICAL ACTIVITY; PENALTIES. (August 2, 1939, ch. 410, sec. 9, 53 Stat. 1148, 1149; as amended July 19, 1940, ch. 640, sec. 2, 54 Stat. 767; and further amended March 27, 1942, ch. 199, title VII, sec. 701, 56 Stat. 176, 181; June 29, 1946, ch. 526, sec. 1, 60 Stat. 345; August 8, 1946, ch. 904, 60 Stat. 937; March 31, 1947, ch. 29, sec. 3, 61 Stat. 34; July 15, 1947, ch. 248, sec. 3, 61 Stat. 321, 322; August 25, 1950, ch. 784, sec. 1, 64 Stat. 475; 5 U. S. C. and Supp. II, 1955, 118i.)

Employees of executive departments, etc.

Interference in an election unlawful

Taking any active part in political management or campaigns forbidden

Exceptions

Right to vote, etc.

President and Vice President, and Executive Office personnel

Heads, etc., of departments

Policy-determining officers

SEC. 9. (a) It shall be unlawful for any person employed in the executive branch of the Federal Government, or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No officer or employee in the executive branch of the Federal Government, or any agency or department thereof, shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of this section the term "officer" or "employee" shall not be construed to include (1) the President and Vice President of the United States; (2) persons whose compensation is paid from the appropriation for the office of the President; (3) heads and assistant heads of executive departments; (4) officers who are appointed by the President, by and with the advice and consent of the Senate, and who determine policies to be pursued by the United States in its relations with foreign powers or in the Nation-wide administration of Federal laws. The provisions of the second sentence of this subsection shall not apply to the employees of

[16] Sec. 9 was enacted August 2, 1939, and formerly appeared as sec. 61h of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 9 appears as sec. 118i in title 5, U. S. Code, 1952 ed., and a revision of subsec. (a) appears in Supp. II (1955), U. S. Code.

Subsec. (a) amended July 19, 1940, to give all such persons the right "to express their opinions on all political subjects and candidates" (54 Stat. 767).

Subsec. (a) amended March 27, 1942, by the Second War Powers Act to except part-time officers and employees serving without compensation or nominal compensation during World War II (56 Stat. 181). The amendment of March 27, 1942, was temporary but was extended on June 29, 1946 (60 Stat. 345), until March 31, 1947. The amendment of March 27, 1942 was specifically excluded from any extension of time beyond March 31, 1947, by the First and Second Decontrol Acts of March 31 and July 15, 1947 (61 Stat. 34, 321, 322).

Subsec. (a) amended August 8, 1946, to exempt employees of the Alaska Railroad residing in municipalities on the lines of the railroad from the prohibition against taking active part in political management or campaigns, such exemption extending only in respect to activities involving the municipality in which they reside (60 Stat. 937).

Subsec. (b) amended August 25, 1950, to give the Civil Service Commission limited discretion in the imposition of penalties and removed the restriction against reemployment (64 Stat. 475).

Subsec. (c) added August 25, 1950, to require the Civil Service Commission to make annual reports to Congress on any action taken pursuant to sec. 9 (64 Stat. 475).

Employees of Alaska Railroad

The Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside.

Penalty for violation of sec. 9a.

(b) Any person violating the provisions of this section shall be removed immediately from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such person: *Provided, however,* That the United States Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a lesser penalty shall be imposed by direction of the Commission: *Provided further,* That in no case shall the penalty be less than ninety days' suspension without pay: *And provided further,* That in the case of any person who has heretofore been removed from the service under the provisions of this section, the Commission shall upon request of said person reopen and reconsider the record in such case. If it shall find by a unanimous vote that the acts committed were such as to warrant a penalty of less than removal it shall issue an order revoking the restriction against reemployment in the position from which removed, or in any other position for which he may be qualified, but no such revocation shall become effective until at least ninety days have elapsed following the date of the removal of such person from office.

Reports of action taken under sec. 9a.

(c) At the end of each fiscal year the Commission shall report to the President for transmittal to the Congress the names, addresses, and nature of employment of all persons with respect to whom action has been taken by the Commission under the terms of this section, with a statement of the facts upon which action was taken, and the penalty imposed.

Sec. [9A.][17] **FEDERAL EMPLOYEES; MEMBERSHIP IN POLITICAL PARTY OR ORGANIZATION ADVOCATING OVERTHROW OF UNITED STATES GOVERNMENT; PROHIBITION; PENALTIES.** (August 2, 1939, ch. 410, sec. 9A, 53 Stat. 1147, 1148; 5 U. S. C. 1952 ed. 118j; repealed August 9, 1955, by clause 2 of sec. 4 of Public Law 330, 84th Cong., 1st sess., ch. 690 but reenacted in substance by clause (2) of sec. 1 of Public Law 330 [H. Rept. No. 1152 and S. Rept. No. 1256 on H. R. 6590, 84th Cong., 1st Sess.].)

(For text of Public Law 330, 84th Cong., 1st sess., superseding sec. 9A of the Hatch Act *see* p. 28.)

Sec. [10.][18] **EFFECT ON EXISTING LAW.** (August 2, 1939, ch. 410, sec. 10, 53 Stat. 1147, 1149; as amended 54 Stat. 767; formerly 18 U. S. C., sec. 61j.)

[17] Formerly sec. 611 of title 18, U. S. C., 1940 ed.

[18] Former sec. 10 of the Hatch Act was repealed by Public Law 772, 80th Cong., 2d sess. The section was omitted as unnecessary because in the enactment of the revision of title 18 all old sections included in the new title are on an equal basis and speak as of the date of the enactment under authority of *United States* v. *Bowen* (100 U. S. 508), construing the Revised Statutes. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

Sec. [11.] [19] SEPARABILITY CLAUSE. (53 Stat. 1149; formerly 18 U. S. C., sec. 61k.)

Sec. 12.[20] EMPLOYEES OF STATE OR LOCAL AGENCIES FINANCED BY LOANS OR GRANTS FROM UNITED STATES—INFLUENCING ELECTIONS; OFFICER OR EMPLOYEE DEFINED. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767; 5 U. S. C., sec. 118k.)

Interference with an election, etc., by certain State employees forbidden

SEC. 12. (a) No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, or (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No such officer or employee shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of the second sentence of this subsection, the term "officer or employee" shall not be construed to include (1) the Governor or the Lieutenant Governor of any State or any person who is authorized by law to act as Governor, or the mayor of any city; (2) duly elected heads of executive departments of any State or municipality who are not classified under a State or municipal merit or civil-service system; (3) officers holding elective offices.

Use of official authority, influence

Coercion, etc., to contribute part of salary

Active political participation

Right to vote, etc.

Officer or employee construed; restriction

Report of violations to U. S. Civil Service Commission

(b) If any Federal agency charged with the duty of making any loan or grant of funds of the United States for use in any activity by any officer or employee to whom the provisions of subsection (a) are applicable has reason to believe that any such officer or employee has violated the provisions of such subsection, it shall make a report with respect thereto to the United States Civil Service Commission (hereinafter referred to as the "Commission"). Upon the receipt of any such report, or upon the receipt of any other information which seems to the Commission to warrant an investigation, the Commission shall fix a time and place for a hearing, and shall by registered mail send to the officer or employee charged with the violation and to the State or local agency employing such officer or employee a notice setting forth a summary of the alleged violation and the time and place

Hearings by Commission; notification

[19] Former sec. 11 of the Hatch Act was repealed by Public Law 772, 80th Cong., 2d sess. The section was omitted as unnecessary because sec. 18 of the Public Law 772 provides for separability of provisions with respect to the entire new title 18. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

[20] Formerly sec. 611 of title 18, U. S. C., 1940 ed.

of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer or employee or the State or local agency, or both, may appear with counsel and be heard. After such hearing, the Commission shall determine whether any violation of such subsection has occurred and whether such violation, if any, warrants the removal of the officer or employee by whom it was committed from his office or employment, and shall by registered mail notify such officer or employee and the appropriate State or local agency of such determination. If in any case the Commission finds that such officer or employee has not been removed from his office or employment within thirty days after notice of a determination by the Commission that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any State or local agency in such State, the Commission shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants to the State or local agency to which such notification was given an amount equal to two years' compensation at the rate such officer or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency which receives loans or grants from any Federal agency, such order shall require the withholding of such amount from such other State or local agency: *Provided*, That in no event shall the Commission require any amount to be withheld from any loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of such amount would jeopardize the payment of the principal or interest on such bonds or notes. Notice of any such order shall be sent by registered mail to the State or local agency from which such amount is ordered to be withheld. The Federal agency to which such order is certified shall, after such order becomes final, withhold such amount in accordance with the terms of such order. Except as provided in subsection (e), any determination or order of the Commission shall become final upon the expiration of thirty days after the mailing of notice of such determination or order.

Findings and notification of employee and State

Employee not removed from office within stated period; withholding of Federal funds

Amount to be withheld

Exception

Proviso
When funds not to be withheld

Notice to State, etc., agency

(c) Any party aggrieved by any determination or order of the Commission under subsection (b) may, within thirty days after the mailing of notice of such determination or order, institute proceedings for the review thereof by filing a written petition in the district court of the United States for the district in which such officer or employee resides; but the commencement of such proceedings shall not operate as a stay of such determination or order unless (1) it is specifically so ordered by the court, and (2) such officer or employee is suspended from his office or employment during the pendency of such proceedings. A copy of such petition shall forthwith be

Petition for court review

Stay of determination or order

served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the determination or the order complained of was made. The review by the court shall be on the record entire, including all of the evidence taken on the hearing, and shall extend to questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may direct such additional evidence to be taken before the Commission in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings of fact or its determination or order by reason of the additional evidence so taken and shall file with the court such modified findings, determination, or order, and any such modified findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commission's determination or order, or its modified determination or order, if the court determines that the same is in accordance with law. If the court determines that any such determination or order, or modified determination or order, is not in accordance with law, the court shall remand the proceedings to the Commission with directions either to make such determination or order as the court shall determine to be in accordance with law or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court shall be final, subject to review by the appropriate circuit court of appeals as in other cases, and the judgment and decree of such circuit court of appeals shall be final, subject to review by the Supreme Court of the United States on certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, secs. 346 and 347). If any provision of this subsection is held to be invalid as applied to any party with respect to any determination or order of the Commission, such determination or order shall thereupon become final and effective as to such party in the same manner as if such provision had not been enacted.

Transcript of record

Review upon entire record

Additional evidence

Modification of Commission's order

Affirmation by court

Remanding of proceeding to Commission

Finality of judgment and decree; review

When designated provision held invalid, effect

(d) The Commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The Civil Service Commission shall have power to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter pending, as a result of this Act, before the Commission. Any member of the Commission may sign subpenas, and members of the Commission may administer oaths and affirmations, examine

Rules and regulations

Attendance of witnesses, etc.

Oaths, examination of witnesses, etc.

witnesses, and receive evidence. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpena, the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The Commission may order testimony to be taken by deposition in any proceeding or investigation, which as a result of this Act, is pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as hereinbefore provided. No person shall be excused from attending and testifying or from producing documentary evidence or in obedience to a subpena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise before the Commission in obedience to a subpena issued by it: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Enforcement of subpenas

Depositions

Incriminating evidence

Proviso Perjury

Provisions inapplicable

(e) The provisions of the first two sentences of subsection (a) of this section shall not apply to any officer or employee who exercises no functions in connection with any activity of a State or local agency which is financed in whole or in part by loans or grants made by the United States or by any Federal agency.

State or local agency defined

(f) For the purposes of this section—

(1) The term "State or local agency" means the executive branch of any State, or of any municipality or other political subdivision of such State, or any agency or department thereof.

Federal agency defined

(2) The term "Federal agency" includes any executive department, independent establishment, or other agency of the United States (except a member bank of the Federal Reserve System).

Sec. [13.] 608.[21] FINANCIAL AID TO CANDIDATES—CONTRIBUTIONS. (Title 18, U. S. C., sec. 608, as enacted by Public Law 772, 80th Cong., 2d sess., superseding sec. 13, as added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 770, formerly title 18, U. S. C., sec. 61m.)

Contribution to candidate or committee, etc., in excess of $5,000 unlawful

SEC. 608. (a) Whoever, directly or indirectly, makes contributions in an aggregate amount in excess of $5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, including the offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

Penalty

Contributions to or by State or local committees, etc., excepted

This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organizations in the District of Columbia or in any Territory or Possession of the United States.

Certain purchases of goods, advertising, etc., unlawful

(b) Whoever purchases or buys any goods, commodities, advertising, or articles of any kind or description, the proceeds of which, or any portion thereof, directly or indirectly inures to the benefit of or for any candidate for an elective Federal office including the offices of President of the United States, and Presidential and Vice Presidential electors or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

Penalty

Noninterference with candidate's business, etc.

This subsection shall not interfere with the usual and known business, trade, or profession of any candidate.

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[21] Sec. 608 quoted above in the text is based on former sec. 13 of the Hatch Act. References to "pernicious political activity" were omitted in the revision of title 18, U. S. C., as enacted by Public Law 772, 80th Cong., 2d sess.

The punishment provision of this section, which formerly appeared as first sentence of subsec. (d) of former sec. 13 of the Hatch Act, is set out at the end of the first paragraphs of subsecs. (a) and (b), respectively. Words "or both" were added to the punishment provisions in two places, to conform to the almost universal formula of this title.

To improve style the last sentence of subsec. (a) was made a paragraph and the words "or to similar committees or organizations in the District of Columbia or in any Territory or possession of the United States" were added at the end of it. These words were added upon authority of definition of "State" in subsection (d) of former sec. 13, which described a State as including a Territory or possession, and for the further reason that to omit the District of Columbia would have the effect of prohibiting contributions of more than $5,000 by the District committee of each major party to their respective national committees but would permit such contributions by similar committees in the Canal Zone, Virgin Islands, or Puerto Rico.

Subsec. (b) of former sec. 13 of the Hatch Act, contained definitions of "person" and "contribution." In this revised section, definition of "person" was omitted as unnecessary in view of substitution of "Whoever" and definition of "whoever" in sec. 1 of title 1, U. S. C. 1940 ed., General Provisions. Inasmuch as the definition of "contribution" in subsec. (b) of former sec. 13 of the Hatch Act was substantially the same as that contained in subsec. (d) of sec. 302 of the Corrupt Practices Act (sec. 241 of title 2, U. S. C., 1940 ed.), such definition is not repeated in this section, but the definition as contained in sec. 591 of title 18 is made applicable by subsec. (d) of this revised section.

Subsec. (c) of former sec. 13, was omitted as unnecessary in the revision. Changes were made in phraseology.

Violations by partnerships, etc.

(c) In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and wilfully participate in such violation, shall be punished as herein provided.

Contribution defined

(d) The term "contribution," as used in this section, shall have the same meaning prescribed by section 591 of this title.

CROSS REFERENCE

For definition of term "Contribution" see, supra, section 591 of title 18, United States Code, following section 302 of the Corrupt Practices Act.

Sec. 14.[22] DISTRICT OF COLUMBIA EMPLOYEES DEEMED EMPLOYED IN EXECUTIVE BRANCH; EXCEPTION. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 5 U. S. C., Supp. III, sec. 118 k–3.)

District of Columbia employees covered by Act

Exception: District Commissioners and Recorder of Deeds

SEC. 14. For the purposes of this Act, persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States, except that for the purposes of the second sentence of section 9 (a) the Commissioners and the Recorder of Deeds of the District of Columbia shall not be deemed to be officers or employees.

Sec. 15.[23] ACTIVITIES PROHIBITED ON PART OF CIVIL-SERVICE EMPLOYEES AS PROHIBITED ON PART OF OTHER GOVERNMENT AND STATE EMPLOYEES. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 5 U. S. C., sec. 118l.)

Taking active part in political management, etc., deemed to include activities prohibited by Commission

SEC. 15. The provisions of this Act which prohibit persons to whom such provisions apply from taking any active part in political management or in political campaigns shall be deemed to prohibit the same activities on the part of such persons as the United States Civil Service Commission has heretofore determined are at the time this section takes effect prohibited on the part of employees in the classified civil service of the United States by the provisions of the civil-service rules prohibiting such employees from taking any active part in political management or in political campaigns.

[22] Sec. 14 of the Hatch Act providing that District of Columbia employees be included within the provisions of the act was added July 19, 1940, and formerly appeared as sec. 61n of title 18, U. S. Code in both 1940 and 1946 eds. Sec. 14 was excluded from title 18 and left dangling without recommendation for transfer to title 5 upon the revision and codification of that title by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 14 was omitted from the 1952 ed. of the U. S. Code and presently appears only at 54 Stat. 771 but is scheduled to appear as sec. 118k–3 of Supp. III (1956) U. S. Code.
In the revision of title 18, U. S. Code on June 25, 1948, upon authority of sec. 14 the words "or by the District of Columbia or any agency or instrumentality thereof" were inserted in sec. 595 (new) of title 18. (See note to sec. [2] 595.)

[23] Section 15 was added July 19, 1940, and formerly appeared as sec. 61o of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 15 appears as sec. 118l in title 5, U. S. Code, 1952 ed.

Sec. 16.[24] POLITICAL CAMPAIGNS IN LOCALITIES WHERE MAJORITY OF VOTERS ARE GOVERNMENT EMPLOYEES. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 5 U. S. C., sec. 118m.)

Certain residents of municipalities in immediate vicinity of D. C., etc.
Political activities, when permitted

SEC. 16. Whenever the United States Civil Service Commission determines that, by reason of special or unusual circumstances which exist in any municipality or other political subdivision, in the immediate vicinity of the National Capital in the States of Maryland and Virginia or in municipalities the majority of whose voters are employed by the Government of the United States, it is in the domestic interest of persons to whom the provisions of this Act are applicable, and who reside in such municipality or political subdivision, to permit such persons to take an active part in political management or in political campaigns involving such municipality or political subdivision, the Commission is authorized to promulgate regulations permitting such persons to take an active part in such political management and political campaigns to the extent the Commission deems to be in the domestic interest of such persons.

Regulation by Commission

Sec. [17.][25] STATE EMPLOYEES RUNNING FOR PUBLIC OFFICE; RESIGNATION UPON ELECTION. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 771; 18 U. S. C., sec. 61q.)

Sec. 18.[26] ELECTIONS NOT SPECIFICALLY IDENTIFIED WITH NATIONAL OR STATE ISSUES OR POLITICAL PARTIES. (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 767, 772; 5 U. S. C. 118n.)

Political activities in connection with designated elections, etc., not prohibited

SEC. 18. Nothing in the second sentence of section 9 (a) or in the second sentence of section 12 (a) of this Act shall be construed to prevent or prohibit any person subject to the provisions of this Act from engaging in any political activity (1) in connection with any election and the preceding campaign if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) in connection with any question which is not specifically identified with any National or State political party. For the purposes

[24] Sec. 16 was added July 19, 1940, and formerly appeared as sec. 61p of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 16 appears as sec. 118m in title 5, U. S. Code, 1952 ed.

[25] Former sec. 17 of the Hatch Act was repealed by Public Law 772, 80th Cong., 2d sess. The section was omitted in the enactment of the revision of title 18, being temporary and relating only to candidates who had been nominated prior to its enactment July 19, 1940, by ch. 640, 54 Stat. 771. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190).

[26] Sec. 18 was added July 19, 1940, and formerly appeared as sec. 61r of title 18, U. S. Code, 1940 ed., but was excluded from title 18 and recommended for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 18 appears as sec. 118n in title 5 U. S. Code 1952 ed.

Referendums, etc.

of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, shall not be deemed to be specifically identified with any National or State political party.

Sec. 19.[27] DEFINITION OF TERM "STATE". (Added July 19, 1940, ch. 640, sec. 4, 54 Stat. 771; 5 U. S. C. 118k–2.)

State defined to include Territories and possessions

SEC. 19. As used in this Act (sections 118i–118n of title 5) the term "State" means any State, Territory, or possession of the United States.

Sec. [20.][28] 609. MAXIMUM CONTRIBUTIONS TO AND EXPENDITURES BY POLITICAL COMMITTEES; PENALTIES. (Title 18 U. S. C., sec. 609, as enacted by Public Law No. 772, 80th Cong., 2d sess., superseding sec. 20, ch. 410, 53 Stat. 1147–1149, as added July 19, 1940, ch. 640, sec. 6, 54 Stat. 767, 772, and 18 U. S. C., sec. 61t.)

Receipts and expenditures of political committees in excess of $3,000,000 forbidden

SEC. 609. No political committee shall receive contributions aggregating more than $3,000,000, or make expenditures, aggregating more than $3,000,000, during any calendar year.

For the purposes of this section, any contributions received and any expenditures made on behalf of any political committee with the knowledge and consent of the chairman or treasurer of such committee shall be deemed to be received or made by such committee.

Violations

Any violation of this section by any political committee shall be deemed also to be a violation by the chairman and the treasurer of such committee and by any other

Penalty

person responsible for such violation and shall be punishable by a fine of not more than $1,000 or imprisonment of not more than one year, or both; and, if the violation was willful, by a fine of not more than $10,000 or imprisonment of not more than two years, or both.

CROSS REFERENCE

For definitions of terms applicable to this section see, supra, section 591 of title 18, United States Code, following section 302 of the Corrupt Practices Act.

For duties as to contributions; accounts and receipts; statements; limitations upon expenditures see, supra, sections 303–309 of the Corrupt Practices Act.

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[27] Sec. 19 of the Hatch Act defining the term "State" was added July 19, 1940, and formerly appeared as sec. 61s of title 18, U. S. Code in both 1940 and 1946 eds. Sec. 19 was excluded from title 18 upon revision and codification of that title by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 19 appears as sec. 118k–2 of title 5, U. S. Code, 1952 ed.

In the revision of title 18, U. S. Code on June 25, 1948, upon authority of sec. 19 the words "Territory or Possession of the United States" were inserted in two places in sec. 595 (new) of title 18. (See note to sec. [2] 595.)

[28] Sec. 609 is based on former sec. 20 of the Hatch Act and sec. 314 of the Corrupt Practices Act, the punishment provisions of sec. 314 being incorporated at the end of the section upon authority of reference to them contained in words "Terms used in this section (sec. 20) shall have the meaning assigned to them in sec. 302 of the Federal Corrupt Practices Act, 1925, and the penalties provided in such Act shall apply to violations of this section." Words "or both" were added to the second punishment provision to conform to the almost universal formula of title 18. Changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

Sec. 21.[29] ACTIVITIES OF EMPLOYEES OF EDUCATIONAL AND RESEARCH INSTITUTIONS, ETC. (Added October 24, 1942, ch. 620, 56 Stat. 986; 5 U. S. C., sec. 118k–1.)

SEC. 21. Nothing in sections 9 (a) or 9 (b), or 12 of this Act shall be deemed to prohibit or to make unlawful the doing of any act, by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any State or political subdivision thereof, or by the District of Columbia or by any Territory or Territorial possession of the United States; or by any recognized religious, philanthropic, or cultural organization.

Sec. [22.][30] POLITICAL ACTIVITY AFFECTING MEMBERS OF ARMED FORCES; EXCEPTIONS. (Added April 1, 1944, ch. 150, Title V, sec. 501, 58 Stat. 136, 148; amended and made temporary August 21, 1944, ch. 404, secs. 1–2, 53 Stat. 727–728; formerly 18 U. S. C. 61v.)

Sec. [23.][30] LIMITATION ON CENSORSHIP OF POLITICAL LITERATURE, ARGUMENTS, OR OTHER MATTER ADDRESSED TO MEMBERS OF ARMED FORCES. (Added April 1, 1944, ch. 150, Title V, sec. 501, 58 Stat. 136, 149; made temporary August 21, 1944, ch. 404, sec. 2, 53 Stat. 727, 728; formerly 18 U. S. C. 61w.)

Sec. [24.][31] PENALTY FOR VIOLATION OF SECTIONS 22 OR 23. (Added April 1, 1944, ch. 150, Title V, sec. 501, 58 Stat. 136, 149; formerly 18 U. S. C. 61x.)

Sec. [25.][32] EXPIRATION DATE OF SECTIONS 22 AND 23. (Added August 21, 1944, ch. 404, sec. 2, 53 Stat. 727, 728.)

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[29] Sec. 21 was added October 24, 1942, and formerly appeared as sec. 61u of title 18, U. S. Code, 1940 ed., Supp. V (1941–1946), but was excluded from title 18 and left dangling without recommendation for transfer to title 5 upon the revision and codification of title 18 by Public Law 772 (H. R. 3190), 80th Cong., 2d sess., June 25, 1948, ch. 645, 62 Stat. 683. Sec. 21 appears as sec. 118k–1 in title 5 U. S. Code 1952 ed.

In the revision of title 18 on June 25, 1948, upon authority of sec. 21 the second paragraph of sec. 595 (new) was inserted. (See note to sec. [2] 595.)

[30] Secs. 22 and 23 were added as part of section 501, Title V, the Federal Soldiers Voting Law of April 1, 1944. Sec. 22 appeared as sec. 61v of title 18, U. S. Code, 1940 ed., Supp. V (1941–1946). Secs. 22 and 23 were made temporary on August 21, 1944, by sec. 25 (53 Stat. 728) and expired 6 months after termination of hostilities in World War II by Presidential Proclamation No. 2714, December 31, 1946.

[31] Sec. 24 was added along with secs. 22 and 23 and contained the penalty provisions for violation of those sections. Sec. 24 expired with secs. 22 and 23.

[32] Sec. 25 was added August 21, 1944, fixing the termination date for secs. 22 and 23 upon the expiration of 6 months after end of hostilities as proclaimed. Sec. 25 expired with secs. 22–24.

CONTRIBUTIONS BY OR SOLICITATION FROM PERSONS OR FIRMS NEGOTIATING FOR OR PERFORMING GOVERNMENT CONTRACTS

[Public Law No. 753, 76th Cong., July 19, 1940, ch. 640, sec. 5, 54 Stat. 772; repealed, revised, and reenacted into positive law as sec. 611 of title 18, U. S. C., by Public Law 772, 80th Cong., June 25, 1948]

Sec. [5.][34] 611. CONTRIBUTIONS BY FIRMS OR INDIVIDUALS CONTRACTING WITH THE UNITED STATES; PENALTY. (Title 18, U. S. C., sec. 611, as enacted into positive law by Public Law 772, 80th Cong., 2d sess.)

Contributions by persons or firms having United States contracts forbidden

SEC. 611. Whoever, entering into any contract with the United States or any department or agency thereof, either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof, or selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, during the period of negotiation for, or performance under such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or any other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

Solicitations forbidden

Whoever knowingly solicits any such contribution from any such person or firm, for any such purpose during any such period—

Penalty

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

AN ACT PROHIBITING THE EMPLOYMENT BY THE GOVERNMENT OF THE UNITED STATES OF PERSONS WHO ARE DISLOYAL OR WHO PARTICIPATE IN OR ASSERT THE RIGHT TO STRIKE AGAINST THE GOVERNMENT OF THE UNITED STATES

[Title 5, U.S.C., secs. 118p–118r enacted by Public Law 330, 84th Cong., August 9, 1955, ch. 690, secs. 1–4]

Government employment Disloyalty prohibition, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall accept or hold office or employment in the Government of the United States or any agency

[34] This law [sec. 5] was originally enacted as Sec. 5 of the act of July 19, 1940, amending the Hatch Act but is not considered a part of what is commonly referred to as the Hatch Act.

Sec. 611 of the title 18, U. S. C., is quoted in the text above as enacted by Public Law 772, 80th Cong., 2d sess. The new section 611 is based on former sec. 5, ch. 640, 54 Stat. 772 (18 U. S. C., sec. 61m–l), which was repealed. Words "upon conviction thereof" before "be fined" were omitted, since punishment may not be imposed before a conviction is secured. Words "or both" were added to conform to the almost universal formula of the punishment provisions of title 18. A saving clause at the end of the new sec. 611 was omitted as unnecessary. Changes were made in phraseology. (See 80th Cong., 1st sess., H. Rept. No. 304 on H. R. 3190.)

thereof, including wholly owned Government corporations, who—

(1) advocates the overthrow of our constitutional form of government in the United States;

(2) is a member of an organization that advocates the overthrow of our constitutional form of government in the United States, knowing that such organization so advocates;

(3) participates in any strike or asserts the right to strike against the Government of the United States or such agency; or

(4) is a member of an organization of Government employees that asserts the right to strike against the Government of the United States or such agencies, knowing that such organization asserts such right.

Affidavit

SEC. 2. (a) Except as provided in subsection (b), every person who accepts office or employment in the Government of the United States after the date of enactment of this Act, shall, not later than sixty days after he accepts such office or employment, execute an affidavit that his acceptance and holding of such office or employment does not or (if the affidavit is executed prior to acceptance of such office or employment) will not constitute a violation of the first section of this Act. Such affidavit shall be considered prima facie evidence that the acceptance and holding of office or employment by the person executing the affidavit does not or will not constitute a violation of such section.

Emergency work

(b) An affidavit shall not be required from a person employed by the Government of the United States for less than sixty days for sudden emergency work involving the loss of human life or the destruction of property. This subsection shall not relieve any person from liability for violation of the first section of this Act.

Penalty

SEC. 3. Any person who violates section 1 of this Act shall be guilty of a felony, and shall be fined not more than $1,000 or imprisoned not more than one year and a day, or both.

Repeals

SEC. 4. The following parts of Acts are hereby repealed:

(1) Section 612 of the Housing Act of 1949 (42 U. S.C., sec. 1445);

(2) Section 9A of the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939 (5 U. S. C., sec. 118j); and

(3) Section 305 of the Labor Management Relations Act, 1947, as amended (29 U. S. C., sec. 188).

Approved August 9, 1955.

LEGISLATIVE HISTORY OF THE HATCH ACT—INTENT OF THE PRESIDENT AND THE CONGRESS AT THE TIME OF ENACTMENT

At the time Congress was considering the Emergency Relief Appropriation Act of 1936 (H.R. 12624), calling for $1,425 million for relief, there was considerable criticism that politics was being injected into the program. On February 21, 1936, just prior to consideration of the appropriations by Congress, Harry Hopkins, Administrator of the Works Progress Administration, to alleviate this criticism, issued a directive to all State Works Progress Administrators that "persons who are candidates for or hold elective offices shall not be employed on administrative staffs of the Works Progress Administration." The ruling applied to nonrelief supervisory personnel on works projects as well as to State, district, and field administrative staffs. General Letter No. 2, February 21, 1936, published in Congressional Record, vol. 80, p. 7566. To give added impetus to this policy of the administration Senator Bilbo, on June 1, 1936, offered an amendment to the Emergency Relief Appropriations bill (H.R. 12624) incorporating in substance the order of Hopkins. The Bilbo amendment was adopted (Congressional Record, vol. 80, pp. 7566, 8508; H. Rept. No. 3013 (Conference), p. 5, title II; Public Law No. 730, June 22, 1936, 49 Stat. 1597, 1610). The same prohibition was written into subsequent Emergency Relief Appropriation Acts. (H.J. Res. 361) June 29, 1937, (sec. 6, title I, Pub. Res. No. 47, 50 Stat. 352, 355 and (H.J. Res. 679) June 21, 1938, sec. 14, title I, Pub. Res. No. 122, 52 Stat. 809). An amendment offered by Senator Vandenberg and adopted at the same time as was the Bilbo amendment prohibited discrimination in giving relief or employment or approval of applications for projects on account of political affiliations. This amendment also appeared in subsequent appropriations acts.

In the meantime, public concern over misapplication of relief funds seem to grow and the Senate on June 10, 1937, created a Special Committee To Investigate Unemployment and Relief. (S. Res. 36, 75th Cong.; Congressional Record vol. 81, pp. 73, 5515, introduced by Messrs. Hatch and Murray.) This committee composed of Senators Byrnes, chairman, Clark, Frazier, Hatch, Murray, Davis and Lodge submitted a preliminary report on April 20, 1938.

The committee did not report on political activities as some expected. The committee had adopted a policy of not inviting to its hearings witnesses seeking to be heard for the purpose of making charges of political influence against the administration of the Works Progress Administration. To have adopted any other policy, according to the chairman, would have required giving the administrative officials charged an opportunity to be heard. (See S. Rept. No. 1625, pt. 2, p. 4).

When the Emergency Relief Appropriation bill of 1938 (H.J. Res 679) was before the Senate, Senator Hatch offered an amendment designed to prevent any person employed by the Federal Government in an administrative capacity and paid from relief funds from using "his official authority or influence for the purpose of interfering with or influencing a convention, a primary, or other election, or affecting the results thereof." Under the proposal however, "any such person shall retain the right to vote as he pleases and to express his opinions on all political subjects, but shall take no active part in political management or in political campaigns." The penalty was removal from position or office. This amendment sought to apply to those persons in administrative positions of the Federal Works Progress Administration the same restrictions then imposed on civil service employees by Civil Service rule I. The amendment was defeated in the Senate on June 2, 1938. (See Congressional Record, vol. 83, pp. 5569 (original amendment), 7999–8000 (colloquy between Barkley, Byrnes and Hatch); vol. 84, p. 11154 (this amendment same as sec. 9 of later act).)

The Relief Appropriations bill (H.J. Res. 679) thus passed the Senate on June 3, 1938, without the Hatch amendment. However, 5 days later, June 7, 1938, Senator Tydings along with several other Senators asked that a special committee be created to investigate the alleged use of relief and work-relief funds for political purposes. This resolution (S. Res. 290) was agreed to June 16, 1938, but was so amended as to direct that the investigation be made by the Special Senatorial Campaign Expenditures Committee which had been created (S. Res. 283) on May 27, 1938. This special committee was composed of Senators Sheppard, chairman, O'Mahoney, Brown, Norris, Austin and Walsh of Massachusetts (Congressional Record vol. 83, pp. 7632, 7803, 8152, 8278, 9133).

During the election campaigns of 1938, there was much publicity about use of Federal relief funds for political purposes. On January 3, 1939, the Sheppard Committee on Campaign Expenditures and Use of Governmental Funds—of which Mr. Hatch was a member—reported (S. Rept. No. 1, 76th Cong.) that sufficient misuse of Federal relief funds prompted them to make the following recommendations:

I. The committee in the course of its work has been compelled to give much of its attention to charges of undue political activity in connection with the administration and conduct of the Works Progress Administration in certain States. While many of these charges, after investigation, were not sustained, the committee nevertheless finds that there has been in several States, and in many forms, unjustifiable political activity in connection with the work of the Works Progress Administration in such States. The committee believes that funds appropriated by the Congress for the relief of those in need and distress have been in many instances diverted from these high purposes to political ends. The committee condemns this conduct and recommends to the Senate that legislation be prepared to make impossible, so far as legislation can do so, further offenses of this character.

II. The committee recommends legislation prohibiting contributions for any political purpose whatsoever by any person who is the beneficiary of Federal relief funds or who is engaged in the administration of relief laws of the Federal Government. The committee also recommends legislation prohibiting any person engaged in the administration of Federal relief laws from using his official authority or influence to coerce the political action of any person or body.

III. The committee recommends that section 19, title 1, of the present Work Relief Act, making it a misdemeanor for any person knowingly, by means of fraud, force, threat, intimidation, boycott, or discrimination on account of race, religion, political affiliation, or membership in a labor organization, to deprive any person of any of the benefits to which he may be entitled under the Work Relief Act, be so amended as to make such violation a felony instead of a misdemanor.

IV. The committee recommends that all Federal relief acts should be so amended as to provide that any person who knowingly makes, furnishes, or discloses any list of persons receiving benefits under such acts or of persons engaged in the administration thereof, for delivery to a political candidate, committee, campaign manager, or employee thereof shall be deemed guilty of a misdemeanor.

V. The committee recommends that section 208, title 18, of the United States Code be so amended as to prohibit not only the soliciting and receiving of political contributions by officials, employees, and persons now named in that section, but also by anyone acting in their behalf.

VI. The committee recommends that section 211, title 18, of the United States Code be so amended as to prohibit political contributions not only by Federal employees to any Senator or Member of, or Delegate or Resident Commissioner to Congress, but also to any candidate for such offices, or to any person or committee acting with the knowledge and consent and specially in behalf of such Senator or Member of, or Delegate to Congress or Resident Commissioner therein, or of any candidate for such office.

VII. The committee recommends that there should be a limitation upon contributions which individuals may make in behalf of a candidate seeking election to Federal office.

VIII. The committee recommends that section 209, title 18, of the United States Code, relating to solicitation for political contributions in any room or building occupied in the performance of official duties by any person in the employ of the Federal Government be so amended as to include solicitation by letter and telephone, as well as in person.

IX. The committee recommends the adoption by the Senate of a rule requiring all candidates for the Senate to file with the Secretary of the Senate, in response to appropriate questionnaires, a full and complete statement of receipts and expenditures incurred by or in behalf of such candidates in their campaigns for nomination as well as for election.

X. The committee recommends that section 313 of the Federal Corrupt Practices Act be so amended as to prohibit any contribution by any national bank, any corporation organized by authority of any law of Congress, or by any corporation engaged in interstate or foreign commerce of the United States, in connection with any primary or general election.

XI. The committee recommends that subsection (c), section 309, of the Federal Corrupt Practices Act be so amended as to require candidates to report all their campaign expenditures, including those exempted in determining the amount they are allowed to spend under the law.

XII. The committee recommends that section 310 of the Federal Corrupt Practices Act be so amended as to prohibit candidates from promising work, employment, money, or other benefits in connection with public relief.

XIII. The committee recommends the enactment of a law regulating more strictly the use of the franking privilege.

XIV. The committee recommends that the Senate take under consideration the question whether or not a contribution for political purposes made either voluntarily or involuntarily by persons in the employ of the Federal Government should be permitted.

XV. The committee recommends that the Senate take under consideration the question of legislation in connection with coalition and group tickets.

XVI. The committee recommends that the Senate adopt a rule authorizing the Vice President to appoint, at the beginning of each Congress, for the duration of said Congress, a Senate committee on investigation of senatorial campaign expenditures, campaign activities, and use of governmental funds for the purpose of influencing primaries and general elections.

On the next day after the Sheppard committee reported, Senator Hatch introduced two bills (S. 212 and 213) which he later incorporated into a single bill, S. 1871, which he, along with Senators Sheppard and Austin, introduced on March 20, 1939. This bill (S. 1871) subsequently was enacted and became known as the Hatch Act.

Just 11 days after the Sheppard committee's report, the Byrnes Committee to Investigate Unemployment reported (S. Rept. 2, 76th Cong.), giving its approval to the recommendations of the Sheppard committee and further recommending that all future appropriations for relief contain provisions to secure absolute independence of political action for persons receiving benefits. This recommendation was later incorporated in the Hatch bill (S. 1871) and became section 3 of the act but was not limited to relief benefits or appropriations but is applicable to benefits made possible by any act of Congress. The Byrnes committee also recommended what, in substance, became section 4 of the Hatch Act. The Byrnes committee also recommended enactment of the amendment originally proposed by Senator Hatch to the Relief Appropriation Act of 1938 (H.J. Res. 679) but which had been defeated in the Senate on June 2, 1938. (See S. Rept. 2, pt. 1, pp. 7–8, 76th Cong.)

The amendments recommended by the Byrnes committee (of which Mr. Hatch was a member) were incorporated in deficiency relief appropriations bill (H.J. Res. 83) reported from the Senate Appropriations Committee on January 21, 1939. The Appropriations Committee stated that the legislation was recommended by the committee "in consonance with recommendations of the President of the United States in his message of January 5, 1939, the Special Committee to Investigate Senatorial Campaign Expenditures and the use of Governmental Funds in 1938, and the Special Committee to Investigate Unemployment and Relief." (S. Rept. 4, pp. 3–4, 76th Cong.)

When the committee amendments were up for adoption both Senators Hatch and Barkley sought to perfect the amendments by having the same law apply to any other appropriations—not merely to the Works Progress Administration. The Barkley amendments were adopted on January 28, 1939. (Congressional Record vol. 84, pp. 904–905.)

In his message to Congress, January 5, 1939, on the needs of the Works Progress Administration, President Roosevelt advised Congress that by Executive Order No. 7916 he intended to bring administrative employees of Works Progress Administration under civil service. This, however, Congress prohibited. Roosevelt was of the opinion that if this group was brought under civil service they would become subject to the general prohibitions as to political activities of civil service rule I which already applied to other Federal employees covered by civil service. (The Public Papers and Addresses of Franklin D. Roosevelt, vol. 8, item 5, p. 58 and 59n.)

On April 13, 1939, the Senate passed the Hatch bill (S. 1871). (For comment see New York Times, April 14, 1939, p. 17, col. 3.)

On April 27, 1939, President Roosevelt sent a message to Congress on relief needs in which he said he approved of congressional attempt to halt political activity connected with the relief program but thought this could be best

achieved by placing administrative employees of the WPA under civil service, a recommendation that Congress rejected in January. The message said:

"The Congress has recently made provisions against improper political activity on the part of persons connected with the work relief program—provisions affecting not only Federal employees but all persons who may be in a position to bring improper pressure to bear.

"Such legislation was recommended in my message of aJnuary 5, 1939, and has my hearty endorsement. However, insofar as the administrative employees of the Works Progress Administration and of the other agencies connected with the work relief program are concerned, I believe that the political provisions just mentioned would be more constructive and their enforcement would be simpler if the Congress would place such employees within the classified civil service." (The Public Papers and Addresses of Franklin D. Roosevelt, vol. 8, item 71, p. 289. (For comment see New York Times, April 28, 1939, p. 12, col. 2.)

At his White House press conference on July 28, 1939, President Roosevelt described himself as in favor of the objectives of the Hatch bill, but proceeded to raise such questions as to its operation and to raise still another question as to whether he would sign it. He said he would consult with Secretary of Commerce Harry Hopkins, who was Works Progress Administrator at the time, of many of the activities which provoked the Hatch bill, and Frank Walker, Secretary of the Democratic National Committee.

President Roosevelt signed the Hatch Act on August 2, 1939, and sent to Congress a message giving his interpretation of the law. He also recommended (1) that persons in the District of Columbia and nearby Maryland and Virginia should be allowed to run for local offices and (2) that the law be extended to cover State and local employees who are candidates for Federal office. Roosevelt contended (on advice of the Attorney General) that the new law was constitutional in that the Federal Government may prescribe qualifications for its employees but such qualifications cannot interfere with free speech or exercise of the franchise. He said Americans will not stand for "any gag act." Noting that Members of Congress and employees of the legislative branch of the Government are exempt from the provisions of the act (he meant exempt from some sections of the act) he contended (again on advice of the Attorney Gencral) that any Government employee has the right to publicly answer any attack made on him, whether the attack is made by press or radio or by a Member of Congress or by an employee of the Congress. (See S. Doc. 105, 76th Cong., message on S. 1871, August 2, 1939; also see the Public Papers, etc., vol. 8 (No. 100, the Hatch Act) pp. 410–415.)

Section 9 of the Hatch Act is probably the most controversial and its meaning has been subjected to various interpretations. This section prohibits an employee of the executive department to use his official authority or influence to interfere with the result of an election. It also prohibits an officer or employee of the executive department to take an active part in political management or campaigns. Such persons, however, retain their right to vote and to express their opinions on political subjects. The prohibitions do not apply to (1) the President or Vice President, (2) persons paid from appropriations for the office of the President, (3) heads or assistant heads of departments, or (4) officers appointed by the President with the advice and consent of the Senate, and who determine policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws (53 Stat. 1148; 5 U.S.C. 118i). This section 9 is a rewording of civil service rule I as it then existed as applied to employees covered by civil service. (Section 2 of the act was a rewording of civil service rule I to make the same prohibitions apply to persons in administrative positions on federally financed projects. S. Rept. 2, pt. 1, p. 7, 76th Cong. This was amended in 1940 to also cover State and municipal employees whose salaries are paid in part from Federal funds. The penalty here is more severe. 54 Stat. 767; 18 U.S.C. 595.)

Civil service rule I, section 1, at the time of enactment of the Hatch Act read as follows:

"Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express privately their opinions on all political subjects, shall take no active part in political management or in political campaigns."

This rule has been recodified by the Civil Service Commission and now appears as section 4:1 of rule IV, as follows:

"RULE IV. PROHIBITED PRACTICES

"SEC. 4. 1. *Prohibition against political activity.*—No person employed in the executive branch of the Federal Government, or any agency or department thereof, shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No person occupying a position in the competitive service shall take any active political part in political management or in political campaigns, except as may be provided by or pursuant to statute. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. (E. O. No. 10577, Nov. 23, 1954, 19 F.R. 7521; U.S.C. Cong. and Adm. News, 1954, No. 20, p. 7898.)"

It will be noted that under the revised civil service rule employees are no longer limited to expressions on political subjects made privately. This is in conformance with the intention of Congress in striking the word "privately" from section 9 so that the provision as it passed the House and became law read: "to express their opinions on all political subjects." (See C.R. vol. 84, pp. 9623-9625.)

On August 5, 1939, Senator Hatch gave his interpretation of section 9 of the act.

"POLITICAL ACTIVITY UNDER SECTION 9—SENATE BILL 1871

"The law applies to officials and employees in the executive branch of the Government.

"In addition to the President and Vice President, the following are excepted from the prohibitions of the law:

"(*a*) Heads and assistant heads of executive departments.

"(*b*) Officials who determine policies of the Government.

"(*c*) Officials and employees of the legislative branch of the Government.

"The pertinent language in section 9 is practically a duplication of the civil service rule prohibiting political activity of employees under the classified civil service. The section provides in substance, among other things, that no such officer or employee shall take any active part in political management or in political campaigns.

"The same language of the civil service rule has been construed as follows:

"1. Rule prohibits participation not only in national politics, but also in State, county, and municipal politics.

"2. Temporary employees, substitutes, and persons on furlough or leave of absence with or without pay are subject to the regulation.

"3. Whatever an official or employee may not do directly he may not do indirectly or through another.

"4. Candidacy for or service as delegate, alternate, or proxy in any political convention is prohibited.

"5. Service for or on any political committee is prohibited.

"6. Organizing or conducting political rallies or meetings or taking any part therein except as a spectator is prohibited.

"7. Employees may express their opinions on all subjects but they may not make political speeches.

"8. Employees may vote as they please, but they must not solicit votes; mark ballots for others; help to get out votes; act as checkers, markers, or challenger for any party or engage in other activity at the polls except the casting of his own ballot.

"9. An employee may not serve as election official unless his failure or refusal so to do would be a violation of State laws.

"10. It is political activity for an employee to publish or be connected editorially, managerially, or financially with any political newspaper. An employee may not write for publication or publish any letter or article signed or undersigned in favor of or against any political party, candidate, or faction.

"11. Betting or wagering upon the results of a primary or general election is political activity.

"12. Organization or leadership of political parades is prohibited but marching in such parades is not prohibited.

"13. Among other forms of political activity which are prohibited are distribution of campaign literature, assuming political leadership, and becoming prominently identified with political movements, parties or factions or with the success or failure of supporting any candidate for public office.

"14. Candidacy for nomination or for the election to any national, State, county, or municipal office is within the prohibition.

"15. Attending conventions as spectators is permitted.

"16. An employee may attend a mass convention or caucus and cast his vote but he may not pass this point.

"17. Membership in a political club is permitted, but employees may not be officers of the club nor act as such.

"18. Voluntary contributions to campaign committees and organizations are permitted. An employee may not solicit, collect, or receive contributions. Contributions by persons receiving remuneration from funds appropriated for relief purposes are not permitted. (C.R. vol. 84, p. 11154; also vol. 86, p. 2943.)"

During the 3d session of the same 76th Congress in which the original Hatch Act had been adopted, Senator Hatch, on January 8, 1940, offered an amendment (S. 3046) to that act designed to extend its provisions so as to include State and local officers and employees of federally financed projects. This bill (S. 3046) after being amended several times finally was approved by President Roosevelt on July 19, 1940; 54 Stat. 767. Commenting on the Hatch amendment at his White House press conference on March 5, 1940, the President said it always had seemed to him that if the Hatch Act applies to one type of Federal employee who receives his whole salary from Federal funds, it should apply to those who receive part of their pay from the Federal Government (New York Times, Mar. 6, 1940, p. 4, col. 1). Later when the bill seemed apparently bottled up in the House Judiciary Committee, the President called a special conference on May 6, 1940, at which he gave his unqualified endorsement to the bill and took the lead in seeking to have the bill discharged from committee and brought to a vote (Ibid., May 7, 1940, p. 1, col. 1). The bill passed the House July 10, 1940, and was signed by the President on July 19, 1940.

This act of July 19, 1940 extended coverage to include not only employees of the District of Columbia but also employees of federally financed projects of States and municipalities. The Civil Service Commission was given authority to exempt elections in nearby Maryland and Virginia and other federally impacted areas from the partisan political activity prohibitions. The act specifically permitted political activity on the part of both Federal and State employees in connection with nonpartisan elections. The act also placed a $5,000 ceiling on contributions to candidates for Federal office on the part of anyone except State or local committees, which incidentally are also exempt from the prohibitions of the Corrupt Practices Act. A prohibition was also placed on contributions to any political committee or candidate by persons or firms having contracts with the Federal Government. This act of 1940 also prohibits any person or corporation from buying any goods, commodities, advertising or articles of any kind where the proceeds inure to the benefit of a candidate for Federal office. The act also placed a ceiling of $3 million on receipts and a similar ceiling on expenditures during any year by political committees.

On October 24, 1942, officers and employees of educational and religious organizations supported in whole or in part by the Federal Government were exempt from those sections of the act prohibiting political activity (56 Stat. 986).

On March 27, 1942, part-time Federal officers and employees who were serving without compensation or with nominal compensation in connection with the then existing war effort were made exempt from liability for political activities forbidden by section 9 of the Hatch Act. The exemption, however, did not extend to those persons serving in any capacity relating to the procurement or manufacture of war material. The exemption was temporary and expired March 31, 1947 (56 Stat. 181).

On August 8, 1946, employees of the Alaska Railroad residing in municipalities on the line of the railroad were made exempt from section 9(a) of the Hatch Act to the extent that they may take an active part in political management or campaigns in respect to activities involving the municipality in which they reside (60 Stat. 937, 5 U.S.C. Supp. III, sec. 118i).

In 1944, two acts were passed by Congress, adding sections 22–25 to the Hatch Act and designed to regulate the distribution of political propaganda to members of the Armed Forces during World War II. These acts expired June 30, 1947, 6 months after the termination of hostilities (58 Stat. 148–149, 727–728; Presidential proclamation No. 2714, Dec. 31, 1946).

In 1948, during its 2d session, the 80th Congress passed H.R. 3190 which revised, codified, and enacted into positive law title 18 of the United States Code, entitled "Crimes and Criminal Procedure," (Public Law 772, June 25, 1948, 62 Stat. 683). Since the Hatch Act had been previously codified in title 18, most sections were retained in the new title 18. Other sections which had previously appeared in title 18 were subsequently transferred to title 5 "Executive Departments and Government Officers and Employees," and appear in title 5 of supp. III (1950) of the 1946 edition of the United States Code. With this recodification and transfer of sections, numerous changes were made in phraseology for clarity. See 80th Cong., H. Rept. 304 on H.R. 3190.

In 1950, section 9 of the Hatch Act was so amended as to leave it with the discretion of the Civil Service Commission as to whether a violation of the act warrants removal. Previously, removal was mandatory. Also under the 1950 law the Commission is required to report to the President for transmittal to Congress the names, addresses, and nature of employment of all persons with respect to whom action has been taken together with a statement of the facts and penalty imposed (81st Cong., 2d sess., Public Law No. 732, Aug. 25, 1950, ch. 874, sec. 1, 64 Stat. 475). (Also see H. Rept. 2712 and H. Doc. 630, message of the President returning without approval the bill (H.R. 1243) to amend the Hatch Act, June 30, 1950.)

On August 20, 1954, President Eisenhower vetoed a bill (S. 1611) regulating election in the District of Columbia of national committeemen and committeewomen and delegates to national political conventions. That part of the bill (S. 1611) objectionable to the President was a provision amending the Hatch Act so as to permit Federal employees in the District of Columbia to actively participate in the nomination and election of committeemen and delegates. Any extension of political privileges should not be confined to a few employees in the District but should be extended on a nationwide basis. (See S. Doc. 155, 83d Cong.)

SAMUEL H. STILL,
American Law Division, Legislative Reference Service, Library of Congress.

FEBRUARY 2, 1960.

EXEMPTION OF TEACHERS FROM PROVISIONS OF THE HATCH ACT

Teachers are presently exempted from the provisions of sections 9(a), 9(b), and 12 of the Hatch Act. Exemption was brought about by enactment of the act of October 24, 1942, known as the Brown amendment. Senator Prentiss M. Brown of Michigan had originally offered his amendment in 1940 at the time the provisions of the Hatch Act were extended to certain States and local employees, but it was never voted upon.

However, once the Hatch Act was extended to cover certain State employees, the attorneys general of Ohio and Minnesota ruled that teachers in land grant colleges and in other schools receiving Federal funds were subject to the act. Subsequently Congress enacted the Brown amendment adding section 21 to the Hatch Act as follows:

"SEC. 21. *Activities of employees of educational and research Institutions, etc.* (Added October 24, 1942, ch. 620, 56 Stat. 986; 5 U.S.C., sec. 118k–1.)

"SEC. 21. Nothing in sections 9(a) or 9(b), or 12 of this Act shall be deemed to prohibit or to make unlawful the doing of any act, by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any State or political subdivision thereof, or by the District of Columbia or by any Territory or Territorial possession of the United States; or by any recognized religious, philanthropic, or cultural organization."

Following is the legislative history of the Brown amendment.

By an act of July 19, 1940, the provisions of the Hatch Act of August 2, 1939, were extended to certain officers and employees of the several States and the District of Columbia (53 Stat. 1147, Am. 54; Stat. 767). While the act of July 19, 1940, was being debated in the Senate on March 11, 1940, Mr. Prentiss M. Brown of Michigan offered an amendment exempting from coverage by the act of August 2, 1939, "educational religious, eleemosynary, philanthropic, or cultural institutions, establishments, and agencies, together with the officers and employees thereof." (Congressional Record, vol. 86 pp. 2520, 2615, 2621; Senate bills, 76th Cong., pt. 14 (S. 3046).)

Upon assurance from Senator Hatch that Attorney General Frank Murphy had advised him that political activities by teachers were not covered by the bill then under consideration (S. 3046) Senator Brown did not press for a vote on his amendment to exempt schoolteachers. (Congressional Record, vol. 86, pp. 2709 (March 12, 1940).)

Following enactment of the act of July 19, 1940, it soon became apparent that considerable differences of opinion existed as to whether or not teachers were exempted from the Hatch Act provisions. Consequently Senator Brown sought again to amend the law to specifically have teachers exempted by introducing a bill (S. 2471) on April 20, 1942, with an accompanying statement including documents (Congressional Record, vol. 88, pp. 3528–3529):

"POLITICAL ACTIVITIES OF TEACHERS IN THE PUBLIC SCHOOLS AND EMPLOYEES OF OTHER INSTITUTIONS

"Mr. BROWN. Mr. President, I ask unanimous consent to introduce a bill amending the so-called Hatch Act, which, if enacted, will eliminate the prohibition against political activities by teachers in the public schools.

"I also ask consent that there be printed at this point in the Record two letters from the National Education Association, as well as a statement from the National Commission for the Defense of Democracy Through Education.

"The VICE PRESIDENT. The bill will be received and appropriately referred, and, without objection, the letters and statement will be printed in the Record.

"There being no objection, the bill (S. 2417) to amend the act entitled 'An act to prevent pernicious political activities,' approved August 2, 1939, as amended, with respect to its application to officers and employees of educational, religious, eleemosynary philanthropic, and cultural institutions, establishments, and agencies, commonly known as the Hatch Act, was read twice by its title and referred to the Committee on Privileges and Elections.

"(The letters and statement presented by Mr. Brown are as follows:)

"NATIONAL COMMISSION FOR THE
DEFENSE OF DEMOCRACY THROUGH EDUCATION,
Washington, D.C., March 11, 1942.

"The Honorable PRENTISS M. BROWN,
"*Senate Office Building,*
"*Washington, D.C.*

"DEAR SENATOR BROWN: I have just returned from the San Francisco Convention of the National Education Association with the conviction that the teachers of practically every State in the Union will fight vigorously for the passage of the Brown amendment to the Hatch Act, and are desirous of following the guidance of our commission in this matter.

"I was indeed sorry to learn of Senator Hatch's accident. I hope you have been able to get his consent to advance your amendment in his absence. I would appreciate very much any information you have concerning the advancement of this bill so that appropriate action may be taken by the teachers in the various States.

* * * * * * *

"Sincerely yours,

"DONALD DUSHANE.

"NATIONAL COMMISSION FOR THE
"DEFENSE OF DEMOCRACY THROUOH EDUCATION,
"*Washington, D.C., April 9, 1942.*

"The Honorable PRENTISS M. BROWN,
"*Senator From Michigan,*
"*Senate Office Building, Washington, D.C.*

"DEAR SENATOR BROWN: I am very much pleased with the communication you have received from Senator Hatch expressing his approval of action on your amendment. Since my last interview with you I have talked to a number of leading school men of the country and I am sure we are ready to proceed in support of your amendment as soon as it is ready for action.

* * * * * * *

"Sincerely yours,

"DONALD DUSHANE.

"THE HATCH ACT AND THE SCHOOLS

"The Hatch Act must be amended to safeguard freedom of learning and teaching. The original act, passed in 1939, was an outgrowth of alleged abuses of Federal relief funds in the various States. After a brief experience it was claimed that some of the abuses were caused by State employees receiving part pay from Federal sources, so the act was amended in 1940 by extending it to certain State officers and employees.

"Although teachers belong to a profession that does not condone or indulge in corrupt political practices, and although the record of debate in Congress does not indicate that there was any belief that teachers needed to be restrained from improper political procedure, yet the Hatch Act, as finally enacted and interpreted, interferes with the long recognized political rights of many thousands of American teachers.

"Some of the provisions of the Hatch Act seek to prevent political corruption and are in no sense injurious to the teaching profession, and in fact, in some cases provide necessary protection. There are other sections, however, which are definitely objectionable to teachers, which will limit their effectiveness, and which will interfere with the full functioning of teachers as protectors and citizenship instructors of millions of students.

"Teachers have been slow to realize the full significance and the wide applications of the Hatch Act. It was at first believed that it covered only teachers in land-grant colleges and vocational teachers in federally aided systems. As questions have arisen concerning the extent of this law the U.S. Civil Service Commission has made rulings and it now appears that in view of recent interpretations the Hatch Act can be, and probably will be, construed to apply to a majority of American teachers.

"One of the basic purposes of the defense commission is to protect teachers from conditions which interfere with their full functioning. The commission believes that certain sections of the Hatch Act interfere with the protection of public schools, interfere with the freedom of teaching, and will be used as a means of threatening, intimidating, and coercing leaders, administrators, and other members of the teaching profession. The defense commission will make every effort to bring about such amendments of the Hatch Act as will restore and protect teachers' necessary rights and freedoms.

"*Three sections should be amended*

"A careful study of the Hatch Act reveals three sections which, from the standpoint of the teaching profession, are objectionable and should be amended:

"Section 2 of the act, although not yet adjudicated by the courts, will probably prevent numerous members of the teaching profession from discussing Federal policies involved in any election, or the qualifications of candidates for Federal office in their classrooms or teachers' meetings.

"Likewise, section 9(a) may be so interpreted as to discourage all teachers employed by the Federal Government or the District of Columbia from discussing Federal issues involved in an election or the merits of the candidates for Federal office in their classrooms or teachers' meetings. These teachers are specifically prohibited from taking any part in political management or in political campaigns.

"Section 12 prohibits any State or local teacher or school official, any part of whose compensation is derived from Federal loans or grants, from doing or saying anything, as teachers, which will influence any nomination or election. This section also prevents any participation by such teachers in political management or political campaigns. Teachers affected by this act cannot become candidates for any political office.

"*To whom does the Hatch Act apply?*

"The law authorized the U.S. Civil Service Commission to interpret and enforce various provisions of the act. Based on actions by the U.S. Civil Service Commission up to the present time, it may be said authoritatively that:

"1. All employees of land-grant colleges and universities, except possibly those engaged in building construction, are included in the provisions of the Hatch Act.

"2. All vocational teachers and employees, any part of whose compensation comes from Federal aid, are likewise included.

"3. All teachers whose compensation is in any part derived from the income of Federal grazing and forest lands are subject to the Hatch Act.

"4. In view of prior decisions, it is probable that all teachers whose school systems receive any Federal vocational funds will be subject to the Hatch Act, unless such funds are accounted for separately from other school funds.

"5. In the light of prior decisions it is probable that teachers, any part of whose income comes from land grants from the Federal Government to State school systems, will be included under the Hatch Act. Such an interpretation would include the provisions of the Hatch Act a majority of teachers in the United States.

"Why teachers should be excluded

"Following is a brief statement of reasons why teachers should be excluded from sections 2, 9(a), and 12 of the Hatch Act:

"1. Teachers belong to a profession which disapproves of and does not engage in pernicious political practices, and they would continue to be good citizens without the Hatch Act.

"2. This act is discriminatory in that it applied to some teachers and not to others.

"3. The Hatch Act interferes with the freedom of teachers to discuss political issues freely and without Federal political control or censorship. In order to train our youth for understanding and participation in American political life it is of vital importance that the teachers' freedom to teach the truth shall not be interfered with.

"4. If teachers are to train effectively our youth for citizenship they must have full rights of citizenship themselves.

"5. American public schools are dependent upon the understanding and loyalty of our citizens for their financial support and their development and improvement. Very often questions involving the welfare of the schools are issues in political elections. Frequently candidates who are enemies of education run for political office. The integrity and often the very existence of schools depend upon the political activity of members of the teaching profession. It is part of their professional obligation to keep the needs and problems of the schools before the voters of their communities and States.

"6. Under the Federal Constitution the management and control of education is a State function. A comparison between American schools and those of totalitarian countries would seem to indicate the wisdom of local and State control of education. The partial disfranchisement and the muzzling of local and State teachers by the Federal Government is as unnecessary and unjustifiable as it is dangerous and alarming.

"The Defense Commission believes that sections 2, 9(a), and 12 of the Hatch Act should not apply to members of the teaching profession and will make every effort to have this law amended."

In reporting Senator Brown's bill, S. 2471, the Senate Committee on Privileges and Elections stated (S. Rept. 1348, 77th Cong.):

"This bill, S. 2471, was introduced by Senator Brown of Michigan on April 20, 1942, and was referred to this committee. It is substantially the same as a bill, S. 1025, also introduced by Senator Brown on March 3, 1941, which had also been referred to this committee.

"On May 5, 1942, a hearing was held before the Committee on Privileges and Elections and Senator Brown together with six additional witnesses were heard. Senator Brown stated that the amendment is substantially the same as the former one introduced and advocated by him during the consideration of the second Hatch Act of March 1940, and that it was eliminated principally because of the expressed opinion of Senator Hatch, and others, that the provisions of the Hatch Act did not apply to teachers. After the enactment of the act the attorneys general of Ohio and Minnesota ruled that teachers in land-grant colleges and in schools being assisted under the Smith-Lever Act and Bankhead-Jones Act were subject to the act.

"Other witnesses favoring the legislation and who made statements at the hearing were Prof. Donald DuShane, National Education Association, 1201 16th Street NW., Washington, D.C., secretary of the Commission for the Defense of Democracy Through Education; Miss Mabel Studebaker, member of the board of directors, classroom teacher's department, National Education Association, Erie, Pa., Dr. James K. Pollock, professor of political science, University of Michigan; Dr. Thomas F. Green, Jr., American Association of University Professors, 1155 16th Street NW., Washington, D.C., and Dr. Alonzo Myers, New York University, chairman of the Commission for the Defense of Democracy Through Education.

"Witnesses opposing the legislation were Gen. Amos A. Fories (U.S. Army, retired), representing Friends of the Public Schools of America, with headquarters in Chicago, Ill.; and Mr. Elmer E. Rogers, 1735 16th Street NW., Washington, D.C., who later submitted a paper which was included in the transcript of the hearings.

"The principal arguments in favor of the bill are set forth in the following excerpts from the statements of witnesses:

"Senator Brown, of Michigan:

" 'I state two reasons for my advocacy of this bill. First, I think it is wrong to take out of political life one of the most beneficial elements in it, the teaching profession. They are high-minded people; they are students of the science of politics and government, and the people of any State and all other States are entitled to the benefit of their opinions and their active participation in politics.

" 'Second, the law is most discriminatory in that it applies to a considerable class of teachers and does not apply to another considerable class of teachers because there can be no constitutional justification for reaching that class of teachers whose salary or compensation is not in any way contributed to by the Federal Government.

* * * * * * *

" 'I do believe that we should pass this amendment which will remove this cloud from the teaching profession and give the general public the benefit of participation by teachers in political activity.

" 'I conclude with pointing out the principal things that teachers of the class I have mentioned (in schools and institutions receiving Federal aid) are unable to do:

" 'They may not be candidates for any public office, with the exception of local or municipal offices in a few localities.

" 'A teacher may not be a delegate to a political convention.

" 'A teacher may not serve on a political committee.

" 'A teacher may not make a political speech.

" 'A teacher may not serve as an election official.

" 'A teacher may not be connected, editorially or financially, with any political newspaper, whatever that may be, nor may he write for publication or publish any letter or article in favor of or against any political candidate, party, or faction.

" 'A teacher may not be a candidate for nomination or election to any National, State, county, or municipal office.

" 'A teacher may attend a caucus and cast his or her vote, but may not tell why.

" 'A teacher may not be a member of any political club whatsoever.

" 'Those are the particular items I have picked out as being unduly oppressive on the profession (transcript of hearings, pp. 5–8).' "

SAMUEL H. STILL,
American Law Division, Legislative Reference Service, Library of Congress.
FEBRUARY 18, 1960.

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